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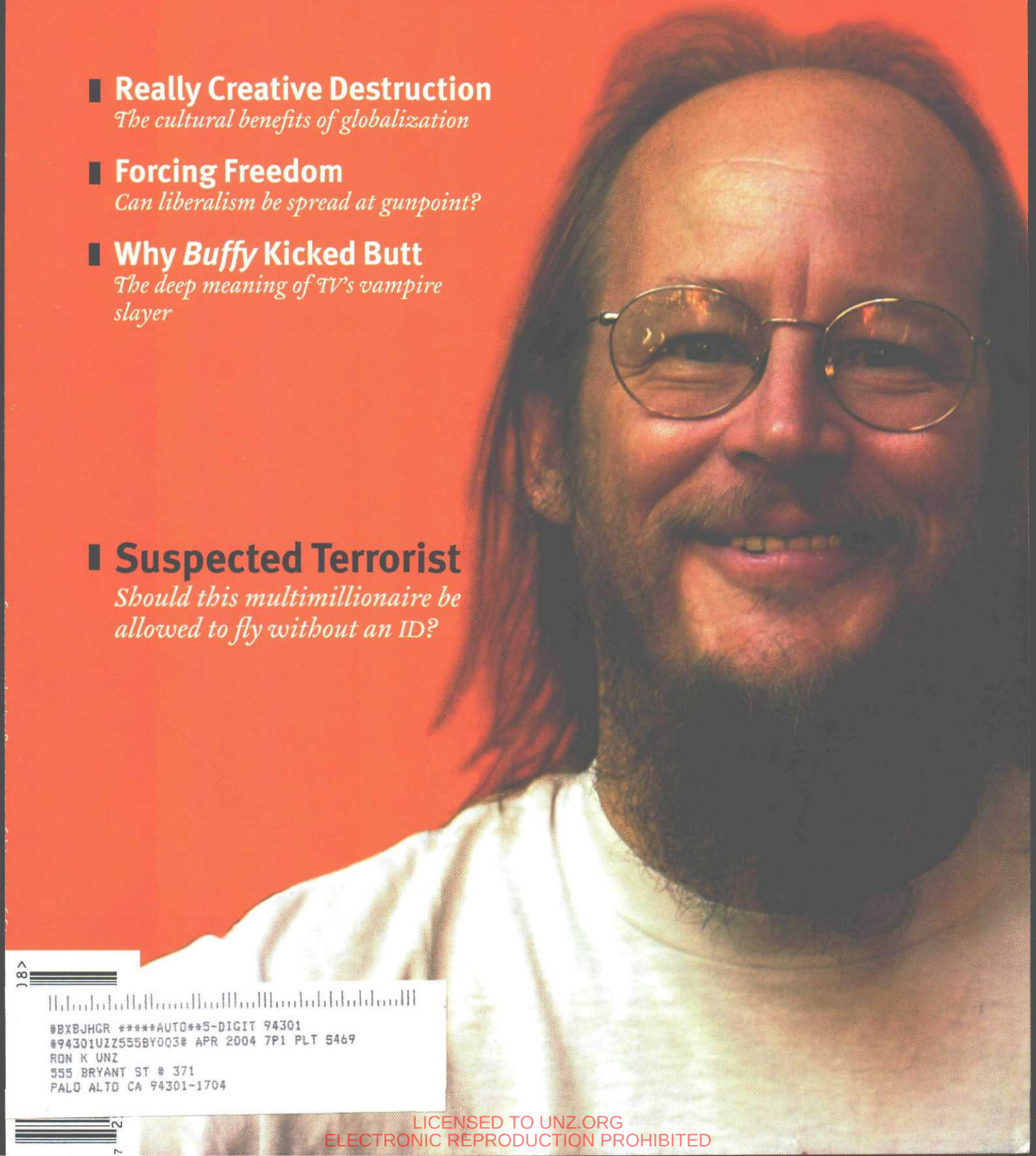

Really Creative Destruction
The cultural benefits of globalization

Forcing Freedom
Can liberalism be spread at gunpoint?

Why *Buffy* Kicked Butt
The deep meaning of TV's vampire slayer

Suspected Terrorist
Should this multimillionaire be allowed to fly without an ID?

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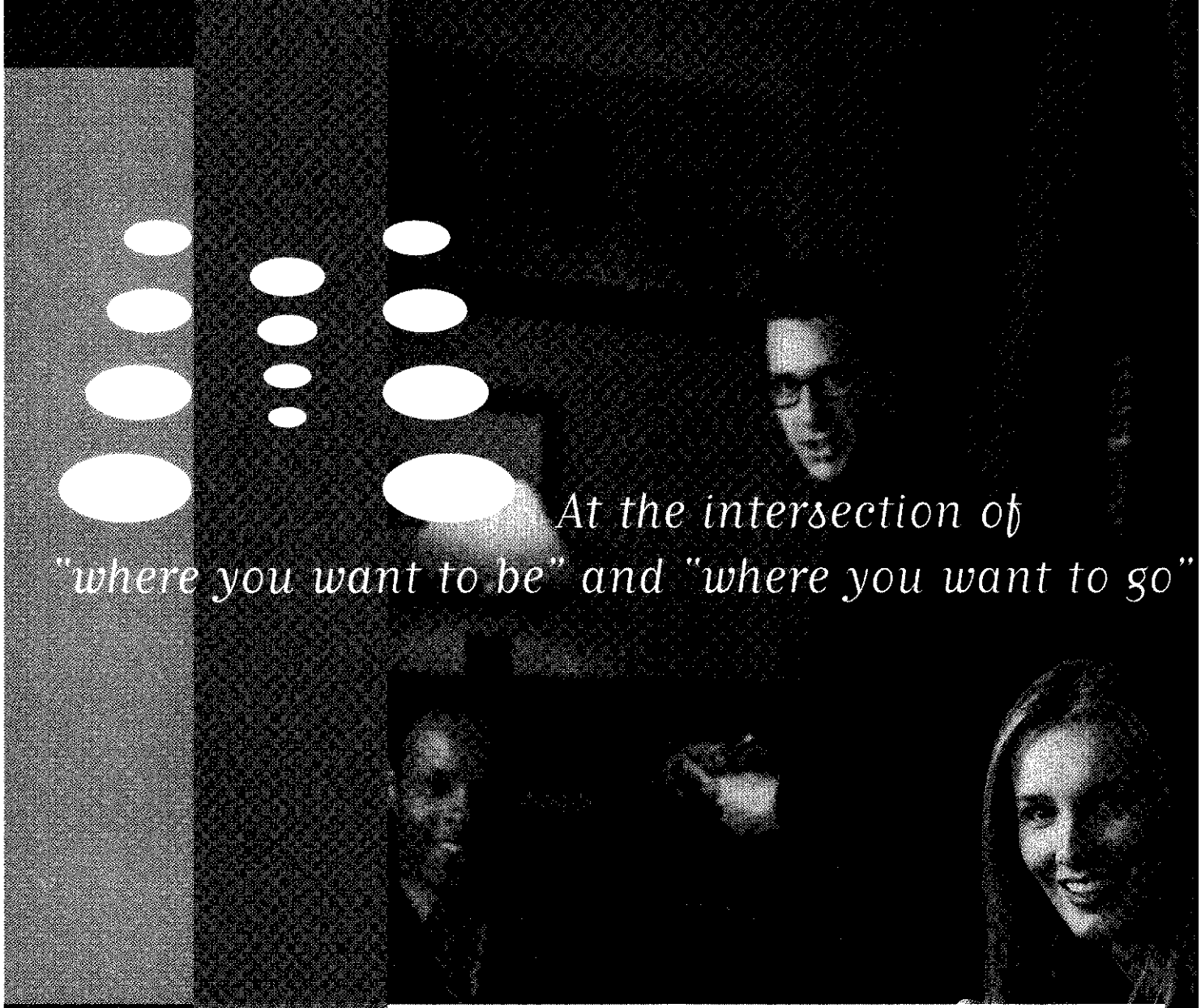

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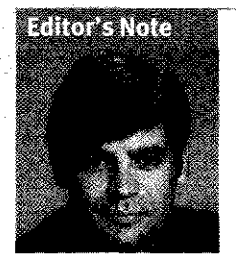

Uncertain Futures

MOST PEOPLE I'VE asked can't remember the first time they had to show a picture ID in order to get on a domestic flight. I can't even be certain of my own first time, although I definitely remember doing so in June 1995, when my family and I had the nauseating experience of flying out of Los Angeles International Airport on a day when the Unabomber (remember him?) had pledged to blow up an airliner leaving from there. The papers were filled with stories about "altitude-sensitive detonators" that made the plane's ascent more nerve-wracking than any takeoff should ever be (the landing, as I recall, was only slightly less stressful).

That no one seems to remember when a relatively recently introduced and now-ubiquitous practice got its start is disconcerting. It's a testament to how quickly we can become conditioned by new rules forced on us, to how institutional structures rapidly remake us into very different people. Americans, after all, long prized their right to travel more or less anonymously; it even used to be a point of pride in comparison to the more stringent protocols in Europe.

Now, notes Associate Editor Brian Doherty in this month's cover story, we flash IDs as naturally as we flash smiles—not just at airports but in all sorts of situations. (See "Suspected Terrorist" on page 22.) Less than two years after the 9/11 attacks, such behavior already has become that most dreaded of realities, "the new normal." Doherty reports on the interesting, quixotic federal case brought by multimillionaire John Gilmore, who is suing the government for the right to fly without having to show an ID.

Gilmore's case is the entry point into a wider discussion of the future of privacy, a concept which is constantly being redefined as governmental edicts, technological capabilities, business practices, and social mores evolve. Where exactly we will end up is far from clear, but Doherty's nuanced exploration of both the benefits and costs of maintaining privacy and anonymity is a major contribution to a discussion that will remain vitally important in the months and years to come.

Other stories in this issue also focus on uncertain futures. Damien Cave's on-the-ground report from Havana exposes how the growing gray-market service economy in Cuba, stunted and warped by decades of arbitrary and vindictive repression, may be laying the groundwork for a post-Castro economy that is more criminal than capitalist in nature. (See "Havana Hustle" on page 38.)

In "Forcing Freedom" (page 46), **reason**'s Ronald Bailey, Christopher Hitchens, Christopher Preble, and Ivan Eland debate the best way to bring liberal values to the unfree nations of the world. And in "Really Creative Destruction" (page 56), economist Tyler Cowen argues for the liberating cultural effects of globalization even as he underscores that such benefits can bring an end to certain valuable ways of life.

Issues such as these make our times particularly intense and interesting. And however they turn out, they guarantee the future will be likewise.

Nick Gillespie

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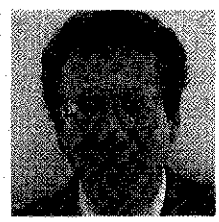

Sam Kazman

Virginia Postrel

Phillips Foundation fellow DAMIEN CAVE calls Cuba "the most inspiring and the most frustrating place I've ever been." (See "Havana Hustle," page 38.) Having traveled for six months in South America after graduating from Columbia University's journalism school, he knows what he's talking about. He's now living in Havana, on his second two-month trip to the island to write about the effects of tourism. "In December, I found people remarkably willing to talk," says Cave, on sabbatical from his position as a *Salon* contributing writer. "This trip has been different—that kind of openness is much more dangerous" since Castro's most recent crackdown on dissent.

Brooklyn native SAM KAZMAN didn't even own a car until he graduated college, and he doesn't drive an SUV. Nevertheless, he's fighting moralizing critics of the plus-sized vehicles in court—and winning. (See "Is Big Bad?," page 62.) In 1992, Kazman, general counsel at the Washington, D.C.–based Competitive Enterprise Institute, won a case against the National Highway Traffic Safety Administration, arguing that it had concealed the harm wrought by fuel economy standards discouraging larger, safer cars. As head of the institute's Death by Regulation project, he's recently filed a follow-up suit.

"It belongs in the canon," says former **reason** editor VIRGINIA POSTREL of her favorite TV show, *Buffy the Vampire Slayer*. (See "Why *Buffy* Kicked Ass," page 72.) Postrel, a former *Wall Street Journal* reporter, reconceived the political spectrum in her groundbreaking first book, *The Future and Its Enemies* (1998). Her second, *The Substance of Style: How the Rise of Aesthetic Value Is Remaking Commerce, Culture, and Consciousness* (HarperCollins), was written from her Dallas home; it's due out this September. "Dallas turned out to be a great place to do the book," says Postrel, who writes monthly columns for *The New York Times* and *D Magazine*. "If I still lived in Los Angeles, people would have said, 'Well, that's just L.A.—Hollywood and all.' Dallas is more suburban middle America."

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Pulling Our Own Strings

Philosopher Daniel Dennett's analysis of free will and determinism is fatally flawed ("Pulling Our Own Strings," May). Based on his reasoning in Ronald Bailey's interview, "avoidance" is an illusion when the onion of causality is peeled back. With an evolutionary recursion, every event is contingent upon previous events. The fact that one can duck from an oncoming baseball only demonstrates how evolution (prior events) has wired the agent to duck. The evolutionary wiring in his brain compels him to do just that, just as gravity compels a raindrop to fall. The complexity of the wiring may mask the determinism, but it is indeed there. Free will? Forget about it.

And as for morality, *puh-leeze.* Whose morality? Dennett's? Why not Genghis Khan's? Where did that come from? With its claim of a universal brotherhood of man, the Enlightenment means nothing in a Darwinian context. Its philosophers merely threw out the baby (God) and improperly appropriated the bath water (an elevated sense of mankind's nature) because the only alternative was nihilism. A Darwinist can now offer that the rejection of the historic Absolute has released man to manifest his intrinsic, naturalistic behavior.

But you know what? The dominant, survival-of-the-fittest behavior may be decidedly tribal, materialistic, self-centered. So using Darwin, I can make an exact counterpoint to Dennett and argue that he is pushing on a utopian rope that contravenes human nature. Or is Dennett, full of hubris and conceit, the new god? Have he and his cohorts divined the new "moral" order that transcends even Darwin?

In the world of Darwin there is no morality, public or otherwise. There may be utilitarian reasons for specific social behaviors but not moral ones.

Daniel Dennett and his philosopher pals are whistling past the graveyard of nihilism. They just haven't the *cojones* to admit it.

Steve Mack
Washington, D.C.

Velvet President

It is rather ironic that Matt Welch's tribute to Vaclav Havel ("Velvet President," May 2003) should appear alongside Daniel Dennett's ruminations about "evolutionary morality"("Pulling Our Own Strings") and Jesse Walker's article on a particularly vapid form of spiritual syncretism ("Inside the Spiritual Jacuzzi").

The recently retired Czech president is the product of a distinctive Central European culture whose artists and intellectuals, through some 50 years of totalitarianism, were remarkable for their often naive but always courageous commitment to a free society. For most of the Cold War period, the philosophical expression of these freedom lovers in communist countries was neither widely known nor acknowledged in the West. Nowadays many would prefer to forget it, lest its memory serve as a reproach against those who were witting or unwitting apologists for appeasement.

In any event, Havel emerged out of this intellectual tradition, which included among its pioneers Tomas Masaryk, Jan Patocka, and Edmund Husserl. Husserl, interestingly, had the mystic Edith Stein as his assistant and exercised considerable influence on the phenomenological approach developed by a young Polish intellectual named Karol Wojty, who later, as Pope John Paul II, played a not insignificant role in the collapse of the Iron Curtain.

This school of thought argued that the condition for "living in truth"

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amid the totalitarian nightmare was openness to what Havel calls an objective "order of Being" acknowledged over millennia by all authentic human cultures, often quite independently of one another. The guarantees of human freedom and personal responsibility are to be found neither in programs nor in systems, but in "man's relationship with what transcends him, without which he would not be."

In a 1994 address at the Stanford University Law School on "The Spiritual Roots of Democracy," Havel argued that the fundamental crisis of the modern world is that individuals have lost respect for themselves, for others, and for "the order of nature, the order of humanity." When that respect is lost, laws and moral norms are undermined, as is a sense of responsibility: "The relativization of all moral norms, the crisis of authority...[originates] in that which man has lost, his transcendental anchor, and along with it the only genuine source of his responsibility and self-respect."

Havel contrasted this reverence for the "veiled mystery of Being" with the Marxist presumption that reality is governed by a finite series of laws whose interrelationships can be grasped by the human mind and reduced to formulae, an approach he characterized, pace Dennett, as "the arrogant belief that the world is merely a puzzle to be solved, a machine with instructions for use waiting to be discovered."

In his commencement address at Harvard the following year, Havel explained that he does not argue for a single "universal key to salvation" so much as the recovery of the "archetypal spirituality" that is "the foundation of most religions and cultures," the "respect for what transcends us, whether we mean the mystery of Being or a moral order that stands above us." It is each individual's constant quest to experience a part of this mysterious but objective truth—and not the "feel good" cafeteria-style dabbling of the "Hot Tub Mystery Religion"—that renders life truly human.

J. Peter Pham
New York, NY

Among the many powerful lines cited in Matt Welch's article, one in particular stands out in my mind as timeless, true, and deserving of my respect for Vaclav Havel, the incredible and brave gentleman whom the writer quite rightly identifies as the modern counterpart of Eric Blair, a.k.a. George Orwell:

"When the internal crisis of the totalitarian system grows so deep that it becomes clear to everyone...and when more and more people learn to speak their own language and reject the hollow, mendacious language of the powers that be, it means that freedom is remarkably close, if not directly within reach."

As for Christopher Hitchens, I admire his intelligence, powers of reason, and command of the language, and found his fine book *Why Orwell Matters* to be a persuasive and moving piece of work. But I somehow do not see The Hitch as the torchbearer of the Orwellian legacy. And while I also respect (for quite different reasons) the brilliant but not-so-gracefully-aging Noam Chomsky, who has he *not* railed against of late, apart from Ramsey Clark? It's become nearly a badge of honor for those on the right *and* on the left.

I have been giving a lot of thought lately to The Flying Dutchmen, the wonderfully diverse and fluid troupe of writers and poets of which I was a founding member, along with Herman Kluge, R.T. Castleberry, and Charles Harvey. The Flying Dutchmen were involved in what I consider to be some of the most important literary and artistic activities in Houston during the 1980s and '90s—and their imprimatur remains to this day a valuable part of that city's small but vocal "Orwellian" legacy. I tip my hat to the original spirit which brought that wonderful group together.

Ron Christian Welch
Austin, TX

I must say I greatly enjoyed reading the piece on Vaclav Havel. But I'm curious about this passage: "His open, though qualified, flattery of the U.S. is one reason Noam Chomsky considers him 'morally repugnant' and on an 'intellectual level that is vastly below that of Third World peasants and Stalinist hacks.'"

I haven't read a lot of Chomsky, but this surprised me. Where did these quotes come from?

Clay Young
Via e-mail

Matt Welch replies: In February 1990 Vaclav Havel gave his first U.S. speech in front of a joint session of Congress. Noam Chomsky, in a letter to Alexander Cockburn shortly thereafter, called it a "shameful performance" and an "embarrassingly silly and morally repugnant Sunday School sermon."

Later in the same letter, which is included in Cockburn's *The Golden Age Is in Us* (1995), Chomsky wrote: "So by every conceivable standard, the performance of Havel, Congress, the media, and...the Western intellectual community at large are on a moral and intellectual level that is vastly below that of Third World peasants and Stalinist hacks—not an unusual discovery."

In a subsequent essay that appeared in his *Deterring Democracy*, Chomsky reflected on Havel's well-received refer-

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ence to the United States as a "defender of freedom" by concluding: "There is only one rational interpretation: liberal intellectuals secretly cherish the pronouncements of Pat Robertson and the John Birch Society, and can therefore gush in awe when these very same words are produced by Vaclav Havel."

Gun Battles

I'm not sure why Julian Sanchez was given two pages to celebrate the major blow he struck against the right to bear arms ("The Mystery of Mary Rosh," May). I was going to say "minor blow," but that was before I looked up the matter on the Net. For example, in the March 20 *St. Paul Pioneer Press* (twincities.com): "Lott has been largely discredited as a reliable source of information on gun policy."

Judging from his blog, Sanchez now thinks Lott's questionable statistic, on brandishing vs. using a gun, was somebody else's editing error. But that will not change matters. Liberals are utilitarians in ethics; in other words, they have no rule against lying for a "good" cause. Long before any scandal erupted, they were already doing whatever they could to discredit Lott.

Sanchez never mentions this, the real reason why Lott's venial sins were immediately seized upon and broadcast. Meanwhile, both academia and the major media circled the wagons to protect historian Michael Bellesiles, whose entire thesis on gun ownership in America was based on fraud. Indeed, that eventual finding was barely reported by the same outlets that had once praised him to the skies.

Taras Wolansky
Jersey City, NJ

Julian Sanchez replies: It's a bit odd to criticize ideological opponents for being willing to lie for a good cause and then imply that I ought to have done the same thing. This publication certainly has not been shy in exposing Bellesiles' far more egregious academic wrongdoing; see Joyce Malcolm's March cover story, "Disarming History."

In any event, Taras Wolansky is correct that Lott's pseudonymous pecadilloes are at worst embarassing. If his scholarly reputation has suffered, it's due to his own dodgy use of numbers—something others were already reporting on when I picked up the story. As for the brandishing survey, it's worth noting that if it existed, a question on which I remain agnostic, it was surely irresponsible to make a broad statement about national brandishing and firing rates without mentioning that the sample size was far too small to support such generalizations.

Bureaucratic Response

In "Bureaucratic Enrichment Zones" (May), Jesse Walker repeated the common fallacy that "by the time zone enthusiast Jack Kemp became HUD secretary in 1989, the idea had changed to the point where new federal subsidies were part of the mix."

Nothing could be farther from the truth. When I was at HUD, enterprise zones were designed to reduce tax barriers to employers who would locate and invest within the zone. The purpose was to demonstrate the efficacy of reasonable tax policy, with the added benefit of "green lining" specific zones to bring business and investment into economically distressed areas. This would serve two further purposes: to provide incentives for job creation and plant the seed for long-term community wealth formation and broader national reform.

Coincidentally, Empower America details the demise of the original intent of enterprise zones under the Clinton administration's Empower Zone/Enterprise Community initiative in a new white paper, "National Enterprise Zones of Choice," available online at www.empower.org/docs/ea/EnterpriseZones031903.pdf. Instead of continuing failed tax-subsidy boondoggles of the previous administration, we encourage Congress and the administration to embrace National Enterprise Zones of Choice, based on sound fundamental tax policy to demonstrate the power of tax reform and to illustrate policies that will help end economic dependency.

Jack Kemp, Director
Empower America
Washington, D.C.

Jesse Walker replies: Even before Clinton, enterprise zone proposals were bundled with federal spending. The "Weed and Seed" initiative that the first President Bush pushed after the L.A. riots, for example, specifically directed federal funding for police and social services to "areas designated Enterprise Zones." If Clinton spread the money further, it was because he stood on the shoulders of giant spenders.

reason News

- With this issue, we welcome two new editors to the staff. Associate Editor Matt Welch will fill in for Brian Doherty while he's writing his book on the Burning Man festival for Little, Brown. Assistant Editor Julian Sanchez replaces Sara Rimensnyder, who is leaving to take a job in the entertainment industy.
- This is our annual double issue; the next you receive will be dated October.

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Cell block sexual abuse; warrantless tracking; peanuts, candy, heroin; Department of Homeland Scrutiny; more TV for kids

The Winter of copyright discontent

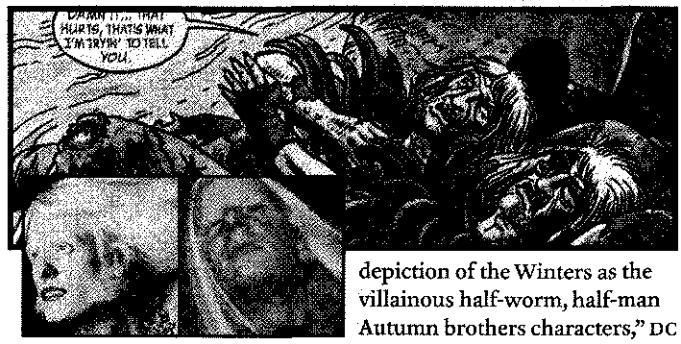
Albino Blues

Tim Cavanaugh

"COME ON AND take a free ride," Edgar Winter urged us all in 1972. But when DC comics took the Texas rock legend at his word he sued.

A 1995 issue of the comic book *Jonah Hex: Riders of the Worm and Such* uses the image of Edgar and his fabled guitarist brother Johnny as models for the "Autumn Brothers," a pair of half-human, half-worm mutants who are eventually dispatched by the title character. The Winter brothers might not be burning up the pop charts these days, but they make a compelling pair of models for a comic. Both are albinos; both sport long, eloi-style hairdos; and the tattoo-rich Johnny is at least a contender for the title of Most Illustrated Man in the Lone Star State. DC also used the brothers' first names in some promotional material for the book.

This type of appropriation would seem to be covered under the satire and parody provisions of copyright law, and in fact the Winters' lawsuit was dismissed in 1998. Last year, however, the



brothers' lawyers resurrected the suit, citing a subsequent court ruling—2001's *Comedy III Productions v. Saderup*. In *that* case, the California Supreme Court ruled that a merchant selling T-shirts of the Three Stooges had not added sufficient "creative elements" (the plaintiff had depicted the Stooges frowning) to "transform" a copyright-protected image.

Last June, an appellate court upheld the dismissal of the Winters' claims of defamation, invasion of privacy, and misappropriation of names and likenesses. However, the court reinstated the rest of the lawsuit, on the grounds that DC's work was not sufficiently transformative. "It is hard to conceive of a use of a celebrity likeness that could be more transformative than the depiction of the Winters as the villainous half-worm, half-man Autumn brothers characters," DC attorney Michael Bergman wrote in his brief.

In the end, the state appeals court agreed, in a decision that extends parody protection to comic books. The Winters' lawyer still hopes to continue the case against DC's use of the brothers' images in its advertising.

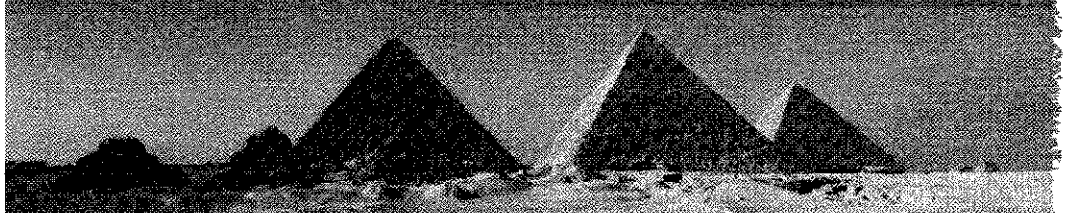
Cell block sexual abuse

Rape Behind Bars

Jesse Walker

PRISON RAPE OCCUPIES a peculiar place in the penal system. Some institutions try to fight it, while others make few such efforts. At times, it's discussed as though it's an unofficial part of the system: one last incentive to obey the law, in case the pros-

25 years ago in reason



"Egyptian President Anwar Sadat has new powers to protect Egypt from the Red Menace. Adherents of 'any ideology incompatible with religion' (how coy!) are barred from the press and other areas, and journalists are required to support 'socialist democracy.'"

—Bill Birmingham, Brickbats

"Congressmen don't want to hire people smarter than they are. This reduces competence to levels undreamed of."

—Gary North, "Confessions of a Washington Reject"

"Since we seem destined to get little besides buffoonery from Congress, why not streamline the institution to get that humor as economically as possible? One extremely cost-effective plan would be the replacement of all the members and staffers of Congress with a single professional comedian of recognized ability."

—Peter Fasolino, "A Fairly Modest Proposal"

"One of the chief ways in which cultists seek to manufacture a sense of efficacy is by fantasizing that their Truths are rapidly being accepted by the society around them and will shortly dominate the culture."

—Edith Efron, "On Libertarian Optimism"

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pect of sustained isolation and discipline isn't enough. Within the prisons, it's a means of domination as well as gratification: Inmate rape is not merely an individual crime, but an instrument in establishing power relations behind bars.

Statistics on prison rape are spotty, with most states not even bothering to collect data on it. One study, investigating seven prisons in four states, appeared in *The Prison Journal* in December 2000; 21 percent of the inmates surveyed said they had been raped at least once during their confinement. A year later, Human Rights Watch revealed an internal survey from one state (left unidentified) in which "line officers—those charged with the direct supervision of inmates—estimated that roughly one-fifth of all prisoners were being coerced into participation in inmate-on-inmate sex." (Higher-ranking officials gave the lower but still disturbing estimate that an eighth of all prisoners are raped, while the inmates themselves suggested that the proper figure is a third.)

Now a left/right coalition has assembled behind H.R. 1707, the Prison Rape Reduction Act of 2003. Co-sponsored by Reps. Frank Wolf (R-Va.) and Bobby Scott (D-Va.), the bill would conduct more complete research on the problem and would "provide information, resources, recommendations, and funding to protect individuals from prison rape." Its supporters range from the National Association for the Advancement of Colored People to Prison Fellowship Ministries, a conservative Christian group run by repentant Watergate conspirator Chuck Colson.

There is some debate over where the money involved should come from. Susan Herman, executive director of the National Center for Victims of Crime, has wondered in print "which states or entities would lose funds to accommodate the funding increases for those that cooperate and make progress in addressing prison rape." Herman suggests that it would be simpler to give them money previously earmarked for those prisons less willing to cooperate. Even with that caveat, though, she and her group strongly support the bill.

Instead, opposition has come from the Department of Justice. *National Review* Editor Rich Lowry reports that some lawyers there "worry that the bill trespasses on federalism principles," an implausible objection for legislation that does not override state or local authorities and aims only to enforce existing laws. Still, Wolf tells Lowry that "I've had low-level, behind-the-scenes opposition from Justice. We would have passed the bill last year if it hadn't been for some people in the Justice Department." ▯

Eyes in the sky

Warrantless Tracking

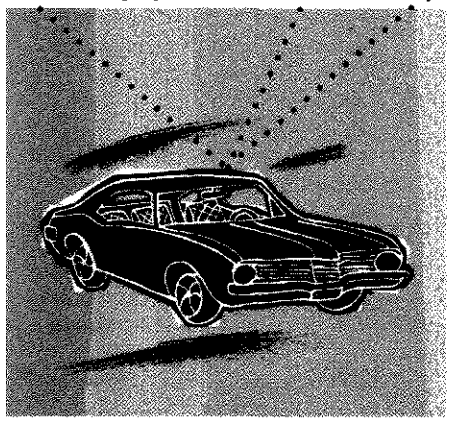
Brian Doherty

CAN COPS PUT a global-positioning-satellite tracker on your car without a warrant? That question will soon be decided by Washington state's Supreme Court.

Strangely, in the case in question, the police *did* have a warrant. Accused murderer William Jackson had a GPS device placed on his car to trace him as he went to the site where the body of his murdered daughter had been buried. But in a challenge to a state appellate court, Jackson's lawyers argued that the police did not have probable cause to get the warrant. The court said it didn't matter, since they didn't even legally need the warrant. Thus, that question needs to be decided.

Doug Klunder of the American Civil Liberties Union, who filed an amicus brief in the case, says this is the first case in the United States considering this issue of warrants and GPS devices. The precedents relied on in the case so far involve the use of beepers. Klunder argues that GPS devices raise a different set of legal concerns, since they, as he wrote in his brief, "create a detailed record of all movement, available for later access...they cannot be considered...mere sensory enhancement." Meanwhile, with beepers, "there is no way...to look at somebody and discover where he has been at all times over the last week." The Court of Appeals decision relied on thinking of GPS as merely equivalent to physically tailing a suspect, something cops can do without a warrant.

In his brief, Klunder quotes a dissenting opinion from a Nevada state case upholding warrantless beepers. The opinion sums up the ACLU's fears about a world where cops can use GPS indiscriminately: Such devices could be used to "continually monitor individuals only because law enforcement considers them 'dirty.' In the future, innocent citizens, and perhaps elected officials or even a police officer's girlfriend...will have their whereabouts continually monitored simply because someone in law enforcement decided to take such action. This gives too much authority to law enforcement and permits the police to use the vehicle monitor without any showing of necessity and without a limit on the duration of the...intrusion." ▯



Peanuts, candy, heroin

Bad Ad

Julian Sanchez

THE OFFICE of National Drug Control Policy (ONDCP) once occupied itself with protecting Americans from the total ruin that »

Quotes

"You can make an easy kind of a link that, if you have a protest group protesting a war where the cause that's being fought against is international terrorism, you might have terrorism at that [protest]....You can almost argue that a protest against that is a terrorist act." ▯

—Mike Van Winkle, spokesman for California's Anti-Terrorism Information Center, quoted in the May 18 *Oakland Tribune*

"Our lovely, kind street-walkers have been replaced by girls from the East, Nigerians, travelers, transsexuals, drag queens, bearers of AIDS and other friendly gifts." ▯

—sex icon Brigitte Bardot bemoaning what she perceives as one of the negative effects of immigration on France

Source

Psst! Wanna read the transcripts of Sen. Joe McCarthy's secret hearings? They're online at www.access.gpo.gov/congress/senate/senate12cp107.html. The likes of Aaron Copland, Dashiell Hammett, Langston Hughes, Howard Fast, and Herbert Aptheker are scattered among a very large cast. ▯

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Brickbats

When British police told Mark Smith where to pick up his stolen Ford Focus, they left out one little detail. The vehicle was still in the possession of the gang that stole it.

During an argument, James Robertson threatened a fellow city worker with an ax. For that, Robertson—who had previously served 13 years for kicking a man to death—was given five years in prison. As you might expect, he was also fired by the Manchester, England, city government. But an employment tribunal has ruled that he was unfairly sacked and awarded him two weeks back pay. The city council is considering its options, but a spokesman says the cost of an appeal would probably be greater than the cost of the award.

When Kyle Fredrikson, 12, stomped in a puddle and splashed classmates and school officials, he thought it was a just a prank. But the resource officer at his Florida school saw it differently. Deputy Tim Langer cuffed the sixth grader and hauled him off to jail, where he was charged with misdemeanor disruption of school activities.

Since 1991 New York state has collected at least $200 million from a surcharge added to every New Yorker's cell phone bill. The money is earmarked for installing a service that uses GPS technology to trace the location of 911 callers on their cell phones. But after 12 years the system still isn't in place. Where has the money gone? According to an audit conducted by the New York State comptroller, state police have used it to pay for departmental dry cleaning bills, ballpoint pens, travel, car leases, grounds maintenance for precincts, and winter boots.

Peter Tsimortos's house has stood on a mountain outside Dover, Vermont, for 15 years. But the state only learned two years ago that he never got the permit required to build a house above 2,500 feet. So did it impose a big fine? No: It's proposing that Tsimortos be forced to tear down the house, which is valued between $700,000 and $1 million.

To battle obesity, New Zealand's Ministry of Health is thinking of banning minors from eating high-calorie fast food and hamburgers. Some officials want to add soft drinks, sweets, and chocolate to the list of forbidden foods. Officials are also mulling a law barring fast food restaurants from operating within 1 kilometer of any school.

Toronto residents are buzzing about Mayor Mel Lastman's recent appearance on CNN to discuss that city's problems with SARS. Lastman said he had not heard of the World Health Organization, didn't really seem to know how many SARS cases Toronto had, and suggested that 500 members of a religious group had been exposed to the disease in the Philippines, even though health officials say they were exposed in Toronto.

Charles Oliver

follows inexorably from that first puff on a joint. Its new mission is apparently to protect us (and, coincidentally, its budget) from Americans who question its policy.

The Office took heat over a recent spate of ads linking drug users with terrorists. (The spots showed drug users solemnly intoning "I helped to blow up buildings" and "I helped to kill policemen.") The ONDCP has responded with a new round of ads defending the first set, and one even raises the objection that drug prohibition is responsible for the link between drugs and crime, just as alcohol prohibition handed gangsters a lucrative new source of revenue. In a spot called "Mini-Mart," a drug-friendly barfly offers the obvious solution: change the law. Another replies: "Cocaine on the playground. Crack stands at the laundromat, heroin at the mini-mart, like that?" The legalizer is duly chastened: "Yeah, that doesn't sound so good, does it?"

When that kind of sound-bite-sized moral clarity isn't enough, though, the office is willing to take a more hands-on approach. ONDCP Director John Walters drew criticism back in December for campaigning against a decriminalization initiative in Nevada, an effort state attorney general Brian Sandoval, in a letter to Nevada's secretary of state, called "particularly disturbing because it sought to influence the outcome of a Nevada election."

Now his deputy, Scott Burns, is under scrutiny for a November letter encouraging local prosecutors to work with legislators to defeat similar initiatives. The ONDCP is barred by law from using federal funds to encourage grassroots lobbying, and U.S. Rep. Ron Paul (R-Tex.) has asked the General Accounting Office to investigate the propriety of Burns's actions. In order to prevent any future embarrassment on that front, the 2003 bill reauthorizing the National Youth Anti-Drug Media Campaign lifts the statutory ban on spending for partisan political purposes.

Pharmacies and medical freedom

The Morning After

Sara Rimensnyder

MAKERS OF PLAN B, one of the two brands of "morning after" pills—high-dose birth control pills that are only effective within 72 hours of unprotected sex—are planning to petition the FDA for over-the-counter status. Such a move would make the drug much more useful: It's most effective within 12 hours of a slip-up, so having to get it directly from a doctor is practically prohibitive.

Already, four states allow doctors to give pharmacists standing prescriptions to dispense the pills. California is one, but a recent *Los Angeles Times* piece suggests that well-meaning guardians of women's health are out to make buying the drug more burdensome than "over-the-counter" would imply.

One of the benefits of selling pills without a prescription is financial; a woman without insurance wouldn't have to pay for a doctor's visit to protect herself against pregnancy. But California pharmacists have been tacking a $20 to $40 "consulting fee" onto the drug's $25 price for women without prescriptions. They say it's to pay for the 15 to 20 minutes they spend questioning a patient before doling out the drug.

Many pharmacists are also asking women to fill out a one-page questionnaire that asks about sexually transmitted diseases, among other things. It was developed by a group that seeks to make pharmacies more active in promoting community health.

"It was not the intent of the

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Balance Sheet

Jeff A. Taylor

Packet Catcher

Sprint is the first phone company to switch its local phone traffic to an Internet-like packet-switched network. Although the upgrade will take years to finish, it could be the start of a real 21st-century phone network.

Quick Check

The FBI claims it has improved the speed of the background checks on gun buyers required by the Brady Law. The checks used to take days, but about 91 percent of gun dealer inquiries are now resolved on the initial phone call, the feds say.

Minute Persons

The University of Massachusetts elects to keep its Minuteman mascot despite citing "gender, firearms and ethnicity issues" as reasons to abandon it. Turns out a redesign of the 30-year-old Minuteman that might sell more T-shirts was a better solution.

Land Ahead

Montana is the first state in the nation to ban the sale of state-owned land to the feds. State officials fear that if Washington gets its hands on land, it'll forbid productive uses that generate tax revenue for schools.

Flat Earth

China takes a close look at flat tax reforms. Don't tell U.S. politicians, but flat is something of a trend. Estonia, Latvia, Russia, and Ukraine have flat taxes, and Slovakia is studying one. All are at rates of 20 percent or lower.

Skinny Tripping

One of the few travel markets resistant to terror anxiety turns out to be nudist vacationing. Nude cruises are all the rage, part of an annual $400 million nude recreation business. Don't forget the sunblock.

Hunting Reason

One U.S. team hunting for weapons of mass destruction in Iraq is dogged by a small problem: No one on the team can read or speak Arabic. Among its "targets" was a clearly marked administrative supply depot.

Hurricane Warning

The University of Miami goes after a Florida high school for using a logo too similar to its own. University lawyers tell the Umatilla High Bulldogs that using the Hurricanes' "split-U" design will cost them $2,000 a month.

Bird Brained

State wildlife officials in Kentucky destroy a bald eagle egg because they lack a federal permit to raise bald eagles. A captive pair of wounded, flightless eagles had bred and produced an egg, something that almost never happens.

Deep Pockets

Defendants in a federal lawsuit over the deadly fire at a Rhode Island nightclub now include Anheuser-Busch, the town of West Warwick, and Shell Oil. The owners of the nightclub that burned in February also ran a Shell station.

Visa Payment

The American Association for the Advancement of Science (AAAS) warns that post-9/11 security crackdowns border on xenophobia, which could retard scientific advancement. Backlogged visa applications for foreign students and researchers could shift the flow of science talent away from the U.S., the AAAS notes.

Pension Plan

Attempts to reform France's public pension system are met by strikes and the promise of more civil unrest. Without change, by 2020 every French worker will have his or her own pensioner to support.

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Data

Government Performance Anxiety

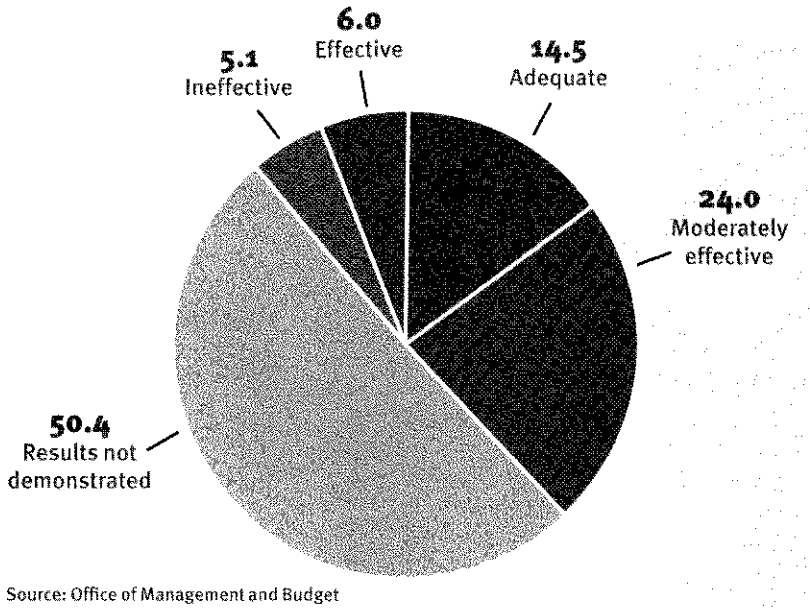
Ted Balaker

The Office of Management and Budget (OMB) recently attempted to find out whether federal government programs actually do what they're supposed to do. The OMB so far has assessed about 230 programs, asking questions such as "Does the program (including program partners) achieve its annual performance goals?" and "Is the program designed to have a significant impact in addressing the intended interest, problem, or need?"

The good news is that some programs, about 45 percent, appear to work at some minimal level. The bad news is that, while just 5 percent were deemed "ineffective," more than half could not even be evaluated because they "do not have acceptable performance measures or have not yet collected performance data."

The federal government spends over $2 trillion annually on more than 1,000 programs. "In most cases," the OMB deadpans, "we do not know what we are getting for our money."

Effectiveness of Federal Programs (in percent)



Source: Office of Management and Budget

law to make pharmacists into public health officials," Shannon Smith-Crowley, a lobbyist for the California Medical Association, told the *Times* in May. "What information do they really need to gather?"

At this point, it's unclear whether FDA approval would factor both the pharmacist and the doctor out of the purchase. The agency often adds restrictions to over-the-counter sales.

"We are hoping that it will just be on the shelf, next to the condoms," says a spokeswoman for Women's Capital Corporation, Plan B's distributor. "But it will ultimately depend on decisions made with the FDA during the 10-month application process." ◻

Dept. of Homeland Scrutiny

Reporters Sans Entrée

Matt Welch

WHEN THE FEDERAL government disbanded the Immigration and Naturalization Service (INS) on March 1, few of the millions who had braved its byzantine ways lamented the bureaucracy's passing. But now that the Department of Homeland Security (DHS) has taken over America's ports of entry, the INS may have gained an unlikely new fan base: French technology journalists.

On the weekend of May 10–11, at least a half-dozen French television reporters arriving in Los Angeles for the massive E3 video game expo were barred from entering the country by agents from the DHS' new Bureau for Citizenship and Immigration Service, on grounds of not having obtained the necessary journalist visas. Though the DHS and BCIS refused to discuss the details of the case, eyewitnesses say the French were trying to enter under the Visa Waiver program, a 17-year-old loophole that allows citizens from 27 friendly countries to visit the U.S. visa-free for up to 90 days, as long as the purpose of the trip is "business or pleasure." Though some may reasonably consider journalism to be a little of both, the State Department does not, and now some of Tom Ridge's boys at Homeland Defense have decided that a rich tradition of non-enforcement can no longer be tolerated.

A journalist visa, or I-Visa, requires a non-refundable $100 processing fee, and a "comprehensive letter from the journalist's employer on the employer's letterhead identifying the journalist and describing in detail the nature and function of the journalist's position." In other words, it's not user-friendly for freelancers, or for people prone to hopping on planes to cover breaking news. That and the usual legalistic confusion—one can search on government Web sites for hours without deciphering what forms a freelancing European is required to fill out—have made Visa Waiver the go-to entry procedure for visiting hacks.

Now those same reporters face long-term disbarment if their names show up on the DHS' new immigration database, which is being used to punish all kinds of prior INS-dodging behavior. "I've heard about people being sent back to Germany if they overstayed one day

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on a previous visit," says Michael Wolff, press officer of the German Consulate in Los Angeles.

Boo-hoo, says the State Department. "If some of [the reporters] are savvy, and have effectively defrauded the government by saying they're just coming for tourist purposes or just general business, they might want to be wary," says Kelly Shannon, spokeswoman for the Bureau of Consular Affairs.

But visa policies are by definition reciprocal. If word gets out that European journalists are being led away in handcuffs and sent back on the next plane, their American counterparts can count on some of the same. At least the video game conferences will be safe from French cameramen.

More TV for kids

Channel Change

Sara Rimensnyder

WE'RE WELL ACQUAINTED with perennial complaints that children are hooked too tightly to the boob tube. Now an Oakland-based group called Children Now (www.childrennow.org) is arguing that children don't have *enough* opportunity to watch TV, due to a decline in network children's programming.

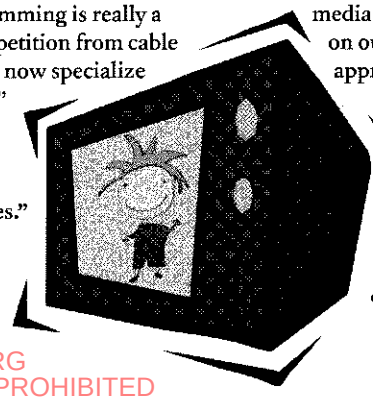
According to Children Now, networks have been ratcheting back the hours once devoted to cartoons and programs such as *Bill Nye the Science Guy*, replacing them with more profitable adult fare. Media mergers will accelerate the decline, the group posits, and things are bound to get worse with the FCC voting to relax its regulations.

As you might have guessed, Children Now's concern is as much media conglomeration as *Inspector Gadget*. "Our research demonstrates that the FCC is moving far too fast and with far too few facts to make changes that encourage further concentration among media owners," says Patti Miller, director of Children Now's Children & the Media program. "The impact on programming for children and their communities clearly has not been properly evaluated."

But does the decline in kids' shows on network TV have anything to do with media consolidation? The Children Now study showed that the largest decrease in programming for children occurred at stations that are part of duopolies, in which one company owns two stations in the same market. Yet it would seem that cable TV, which has entire channels devoted to children (Nickelodeon, Disney, Cartoon Network), is merely overtaking broadcast stations in that capacity.

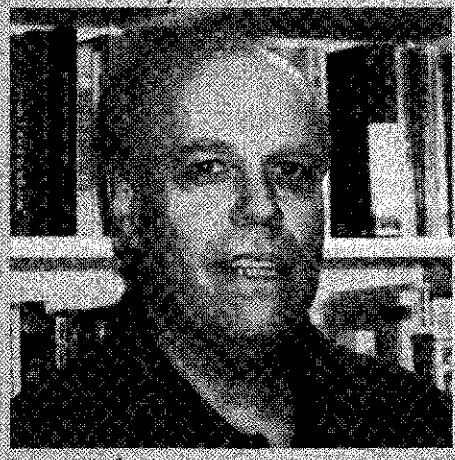
The general manager of KTTV in Los Angeles, David Boylan, agrees. "The reduction in children's programming is really a result of competition from cable channels that now specialize in that genre," he told the *Times*. "It has nothing to do with duopolies."

Children Now did get a strong endorsement from FCC Commissioner Michael J. Copps, who told the *Times* he's "been saying since day one that the FCC must consider the impact of media consolidation on our children." His approval is no small surprise: Copps has frequently spoken of the need for the feds to censor radio, *for the children*.



Joystick Engineers

Sara Rimensnyder



James Paul Gee

First-person-shooter video games have taken the rap for every cuckoo violent teenager who makes the news. Now games like *Doom* are finally getting some good press: They improve visual attention skills by 30 percent or more, according to a study published last June in *Nature*.

That video games could improve players' lives—even their intellects—isn't any surprise to James Paul Gee, author of *What Video Games Have to Teach Us About Learning and Literacy* (Palgrave). Gee, a University of Wisconsin–Madison education professor, first became interested in games when he played *Pajama Sam* with his 4-year-old son. He found it to be "pretty challenging, even for an adult." Soon Gee was logging eight-hour stints with more advanced games—and developing the enthusiasm and analysis that make his book such a good read. Assistant Editor Sara Rimensnyder spoke to Gee in June.

Q: What do you mean when you write that video games teach a "new literacy"?

A: Games are very complex worlds, and kids learn to think about their design: How can I learn not only to interact with this world but to customize it to my styles, interests, and goals? It's a form of writing, if you like, using not just words but pictures, video, and complex environments.

Think about a kid playing *Tony Hawk Pro Skater*. He can easily create his own skateboard park—it's an engineering problem, and 10-year-olds are doing it. In this domain, as with so much modern technology, people are not just consumers; they're producers. Meanwhile, kids at school don't see themselves as producers; they see themselves as consumers, often reluctantly.

Q: Would kids be better off playing video games than going to school?

A: School is a mixed blessing. It often rewards linear thinking—getting straight to your goal. These games reward lateral thinking: reconceptualizing your goals from time to time.

Video games are very complicated systems that are designed to get learned very well. Why? Designers go broke if loads of people don't learn how to play them. Unfortunately, schools don't go out of business when kids fail to learn. We need to get schools to teach on a conceptual, deep level. They need to get kids to understand algebra the way they understand a game like *Rise of Nations*.

Q: How does role playing benefit gamers?

A: It plays with identities in ways that get you to think about the multiple and different identities in your own life. It lets you self-fashion. We're expected in the modern world to take on different identities in different settings. Role playing allows you to ask what kind of person you would be if you had more freedom.

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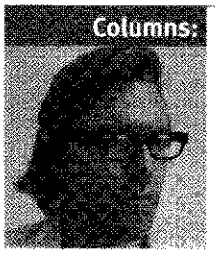

Anything but the Ombudsman!

Why newspapers should avoid in-house watchdogs

THE *New York Times* scandals have been a godsend to people who enjoy arguing about the media. Is the push for newsroom diversity obscuring good judgment? Do dateline policies and stringer-crediting rules pass the smell test? Should editors think twice before promoting error-prone, career-climbing cokeheads?

Contentious issues, all. But there is one remedy to the Gray Lady's ills that the journalistic keepers of the flame, from *The Washington Post*'s Howard Kurtz to ubiquitous journalism-school dean Tom Goldstein to Beltway media diva Cokie Roberts, have all agreed upon: The Paper of Record, at long last, needs to hire an ombudsman—someone who will be "a reader's representative, to take the side of the newspaper's audience when dealing with a vast, and often unresponsive, bureaucracy," as *Newsweek* reporter Seth Mnookin put it recently. "This can't happen soon enough," Mnookin added.

Or can it?

Ombudsman is a Swedish word, originally meaning "the man who sees to it that the snow and ice and rubbish are removed from the streets and that the chimneys are swept," according to a mini-history written by Arthur Nauman, former ombudsman for *The Sacramento Bee*. The term evolved over time to describe state employees who help disgruntled citizens deal with an indifferent or hostile government.

The idea spread across Scandinavia's borders to the rest of Western Europe and North America in the second half of the 20th century, taking root wherever customer-unfriendly bureaucracies either felt guilty or had some rubbish they needed swept. Early adopters included state agencies of every stripe, universities, and hated corporate monopolies such as telecoms.

In 1967, at the height of the New Journalism rebellion, American newspapers were lobbied to get in on the action by two influential writers: A.H. Raskin, the legendary *New York Times* labor reporter (who once said of his career, "My mission, I felt, was to bring together organized labor, employers, the workers and government"), and Ben Bagdikian, a *Washington Post* editor who would go on to bum out generations of college students with his landmark book *The Media Monopoly*. Raskin's dream of creating an ominous-sounding "Department of Internal Criticism" at *The New York Times* was shot down by his bosses, but the *Louisville Courier-Journal* pounced on the idea, and the *Post* soon followed suit, adding the important wrinkle that the ombudsman should write a regular column channeling readers' concerns and challenging the newspaper's practices.

Thirty-seven years later, only around 40 American print or broadcast newsrooms employ such people. (By comparison, there are more than 1,500 U.S. dailies alone.) Yet the idea has been almost universally embraced by journalism professors, media critics, and elite publications—with the outspoken exception of *The New York Times*.

"The *Times* does not have an ombudsman because it believes that departmental and senior editors must be personally accountable to readers and the public," the paper was still explaining on its Web site as of early June. "The *Times* also believes that a journalist's work is most properly evaluated by an editor directly familiar with the assignment and the conditions under which it was carried out."

Not any more. Now that the work of two journalists has brought shame upon the House of Sulzberger and triggered the resignation of Executive Editor Howell Raines, an emer-

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gency committee has been drafted to address a suite of potential reformist questions, among them: "Do we need or want an ombudsman? Chosen from outside or inside? With what kind of contract or charter? Writing or nonwriting? Can an ombudsman be kept insulated from the fashions of outside political and social pressures? What are the alternative or intermediate solutions short of an ombudsman? 'Reader editor'? Part-time or full-time? Group? Rotating duty?"

The nation's ombuddies have responded to the *Times*' woes with a chorus of I-told-you-so's rivaling those of celebrated Raines-baiters Andrew Sullivan and Mickey Kaus. They have capitalized on the opportunity to write about one of their favorite topics: why ombudsmen are so crucial.

"Twenty-two years as an ombudsman," the *Minneapolis Star Tribune*'s Lou Gelfand intoned, "convinces me that the Blair travesty could have been aborted if the *Times* had an ombudsman with freedom to write a weekly column about issues of ethics, fairness and completeness....The day will come when it discards its Achilles' heel and names an ombudsman."

Could the fabulist Blair and dateline-hopping Rick Bragg have been tripped up by a quasi-independent newsroom scold?

Perhaps—if that person could have successfully tackled the editor's look-the-other-way favoritism, encouraged most of the screwed-over sources to complain instead of shrug, reversed decades' worth of editorial arrogance toward readers, and pressured key editors to check facts and track expenses with a scrutiny not seen in years, if ever. In other words, if the imaginary ombudsman could accomplish what no real-world ombudsman, to my knowledge, has ever accomplished.

"Public editors" and "reader's representatives" have a fundamental conflict of interest that editorial boards have been attacking in the corporate world for years—namely, that they are paid by the same people they are supposed to scrutinize. Further, many have been shaped by the very same newsrooms over which they ostensibly serve as "independent watchdogs." Even the most cussedly autonomous ombudsmen can't help reflecting and defending the values of their colleagues.

This makes them useful tools for bosses who need a little chimney sweeping. Halliburton has an ombudsman; Southwest Airlines does not. (When contacted to confirm this, a Southwest public relations officer drawled, "What's an ombud-man?") MSNBC.com and the late *Brill's Content*, two news organizations riddled with more conflicts of interest than most, both made a big show out of hiring ombudsmen and were applauded by the media criticism community instead of challenged on their actual conflicts. The great *New York Times,* meanwhile, has managed to compile a decent ethical record without an ombudsman, recent troubles notwithstanding.

Ombudsmen tend to have a startlingly uniform view of how news organizations and their employees should act and think of themselves. Crime coverage and screaming headlines—bad. Four-part, 17,500-word series on race relations in a sleepy Southern town—good. They typically see their position, the newsroom, and the paper itself to be exalted above the readers they are allegedly paid to represent.

"We must educate the public," said keynote speaker and "Conscience of Journalism" Bill Kovach at the Organization of News Ombudsmen convention last year. (Kovach, as *Brill's Content*'s first ombudsman, sat on his hands when Brill launched a business with the largest companies he covered.) "I believe it is vital to the interest of the journalist and the public that we engage in an urgent, forceful, and consistent campaign to educate the public that in a democratic society, the journalist is, in fact, exercising the highest form of citizenship by monitoring events in the community and making the public aware of them and their importance." It speaks volumes about the conformity of ombudsmen that none of the nearly dozen people who wrote about Kovach's speech found this appallingly elitist sentiment worth questioning.

This is not to say that ombudsmen can't or don't do important work. But it is work a company that's responsive to its customers makes sure gets done by every employee, instead of being outsourced to a lone, reviled answerman. Hiring a public editor is like advertising your monopolist indifference and staffing bloat; it's admitting defeat (or, depending on how you look at it, victory).

The New York Times' greatness was forged by fierce competition in one of the last remaining multi-newspaper markets. It should come out of this crisis swinging—and leave the ombudsmen to the Swedes. ▮

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Tammy Bruce's Journey

The politics have changed, but the style remains the same.

When Tammy Bruce, then president of the National Organization for Women's Los Angeles chapter, clashed with the national leadership of NOW over the O.J. Simpson murder case in 1995, it was a thrilling spectacle of two leftist ideologies colliding: the irresistible force of radical feminism meets the immovable object of racial politics.

Bruce, who scoffed openly at the notion that Simpson was a victim of racist persecution, was censured by NOW's national board for "statements that clearly violate NOW's commitment to stopping racism"—for instance, that the issue of domestic violence provided "a needed break from all that talk of racism."

While Bruce was almost certainly on the side of the angels here, her record suggested that it was a case of a broken clock being right twice a day. Among other things, Bruce had once hailed the Women's Action Coalition, the now-defunct militant group that barred all men, including reporters, from its actions and events. ("Most groups metamorphose," she was quoted as saying, "but I hope they stay the same.") She also lambasted a judge for reversing a policy that had banned Los Angeles firefighters from reading nudie magazines in their personal quarters at the fire station.

Fast-forward to 2003. Meet Tammy Bruce, a columnist for the reliably right-wing NewsMax.com and a television pundit who voices the conservative position on everything from the death penalty to the Pledge of Allegiance. Her new book, *The Death of Right and Wrong: Exposing the Left's Assault on Our Culture and Our Values*, has blurbs from Laura Schlessinger, Sean Hannity, and G. Gordon Liddy.

Such political odysseys, of course, are not unheard of. But unlike, say, her recovering Leninist friend David Horowitz, Bruce denies that her beliefs have undergone any significant evolution. "The funny thing is that my politics haven't changed at all," she tells me. What really happened, she says, is that she finally saw through the "charade" of the left's rhetoric about empowering women and other groups. Bruce, who now calls herself a classical liberal, insists that she is "still very proud" of her work at NOW.

There's something to be said for anyone who riles the feminist establishment as much as Tammy Bruce does. And her maverick status as (to quote her Web site) "an openly gay, pro-choice, pro-death penalty, gun-owning, voted-for-Reagan progressive feminist" makes her appealing in a time when so many pundits spout prepackaged ideologies of the left or the right. Unfortunately, her claim to be an independent thinker is compromised by her own unacknowledged contradictions—and by her penchant for rhetoric straight from the right-wing TelePrompter.

Probably the biggest contradiction is between Bruce's outrage at the left's attempts to suppress politically incorrect speech and her long history of actions that, to the untrained eye, might look like attempts to suppress politically incorrect speech. Bruce rails at the Gay and Lesbian Alliance Against Defamation (GLAAD) for its boycott of sponsors of Schlessinger's television show; yet in 1990, she led NOW's boycott against Knopf over Bret Easton Ellis' novel *American Psycho*. In her 2001 book *The New Thought Police*, Bruce explains that this was different because she never asked Knopf to cancel publication of the book and wanted only to raise public awareness of its violent content. (Actually, GLAAD did not demand the cancellation of

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Schlessinger's show, to the dismay of some gay activists.) Yet Bruce also boasts that partly due to her protest—which included such strong-arm tactics as encouraging people to flood Knopf's inside phone numbers with phone calls—no similar books have been published since, and the editor of Ellis' next novel censored a particularly violent scene.

The targets of Bruce's wrath in her NOW days also included far more innocuous fare than *American Psycho*, such as country singer Holly Dunn's hit song "Maybe I Mean Yes," in which a woman says, "When I say no, I mean maybe/And maybe I mean yes"—a lyric Bruce decried as encouraging rape, even though the context was courtship, not sex. When the protests led Dunn to ask radio stations to stop playing the song and cut it from her live program, Bruce called the singer's decision "a very brave move."

Other inconsistencies abound. Bruce rightly castigates feminists for championing women who kill their children, yet says nothing about their support for women who kill allegedly abusive male partners—a cause to which she herself lent her efforts on at least one dubious occasion.

Asked about this, Bruce reluctantly says, "This is one issue where I probably compromised." Today she stresses that abused women have the responsibility to leave a violent relationship, but she offers a ready excuse for the shift in her views. Battered women, she tells me, had more justification for using deadly violence before 1994—i.e., before the Simpson case and the Violence Against Women Act—when they had fewer protections than they do now.

While Bruce criticizes feminists for writing off the role of fathers in children's lives, she never admits that she herself was guilty of some fairly harsh anti-father rhetoric. In 1995, when Gordon Clark, the estranged husband of Simpson prosecutor Marcia Clark, sought primary custody of their two sons because Clark was working exorbitant hours, Bruce railed against "vindictive, estranged spouses" waging war on working mothers. Earlier, she had suggested that one way to combat domestic violence would be to make it easier for divorced women—presumably not just ones who had been abused—to move with the children regardless of the father's concerns.

What about Bruce's views today? She bristles at the fact that *Publishers' Weekly* called her new book a "right-wing screed." But it does echo a lot of familiar conservative denunciations of cultural decay, with the twist that these things are being said by a lesbian feminist. Bruce trains her sights on soft-on-crime judges and jurors, obscene and scatological performance artists, foul-mouthed rappers, America-hating academics, and proponents of sex education. Even when she's right, her case is marred by a strident tone and a lack of nuance.

Take one of the strongest parts of *The Death of Right and Wrong*: Bruce's attack on the tendency to sexualize children in the name of sexual liberation. She is particularly appalled by the fairly respectable reception of Judith Levine's recent book *Harmful to Minors*, which comes disturbingly close to trying to destigmatize adult sexual contact with minors. Yet what mainstream praise Levine's book has received has focused on her well-founded critique of child abuse hysteria and on such gray areas as sex between teenagers and young adults. And in the case of sexual relationships between underage boys and adult women, the tolerance Bruce laments has far less to do with "the Left" than with traditional attitudes regarding gender.

There are some indications, as well, that Bruce is anxious to avoid displeasing her conservative audience. Her comments on homosexuality, for instance, could hardly upset anyone but the most virulent bigot. True, she criticized Rick Santorum's remarks defending the criminalization of gay sex in her NewsMax column. But while she tells me that she supports same-sex marriage, there is no record of her speaking out for it publicly. (When asked about it, she gives an evasive reply: "I've made the argument in speeches. I've made it, I think, in a couple of columns, and if it became a big issue politically I would take a stand on it.") In *The Death of Right and Wrong*, she argues not only that the Boy Scouts of America have a constitutional right to ban gays from their ranks but that their anti-gay policy is commendable, since having openly gay scoutmasters would expose boys to the risk of molestation. (She does not mention that the Boy Scouts' policy also bans openly gay teenage boys from being Scouts.)

While Bruce's politics have changed far more than she is willing to concede, some things haven't changed. She still demonizes her opponents and caricatures their views, and she still paints apocalyptic pictures of the problems that concern her. ▯

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Account Balance

Can the government really ensure "corporate accountability"?

Whatever happened to responsibility? These big corporations pollute our environment, endanger our citizens, trade sensitive information about law-abiding Americans, lie about profits, and screw shareholders. And do any of them pay a price? Heck no! Their CEOs are living it up on the Italian Riviera, spending their corporate "wealthfare." Why doesn't the government do something?

The preceding tirade resonates with Americans fed up with boardroom hijinks and stock market fraud. It speaks to a particular sense of injustice: Somebody is succeeding while you remain a failure, ergo there must be hanky-panky afoot. The outrage fuels efforts like the Corporate Accountability Project (www.corporations.org), and the Washington, D.C.–based Corporate Accountability Research Group. It provokes demands like those of Jamie Court, in his book *Corporaterring: How Corporate Power Steals Your Freedom*, that companies establish "customer associations" and suffer "three strikes" corporate death penalties.

Like the *Seinfeld* character Cosmo Kramer's assurance that big corporations "write everything off" (it turns out Kramer doesn't know what a write-off is), the call for more corporate accountability should be measured against reality. Individual executives do in fact get punished, as seen in the recent prison sentence for ImClone CEO Sam Waksal.

But at the corporate level, there is more than accountability. There is a robust form of rough justice for misbehaving companies. Corporations already receive the "death penalty" with no law enforcement needed. Villains of recent years—including Enron, Tyco, ImClone, Global Crossing, and even venerable Arthur Andersen—are all finished or at death's door. WorldCom, renamed *MCI* in an unsuccessful bid to escape the stench of its past, is struggling in a harsh telecom market. Even Union Carbide, a legendary corporate knave, no longer exists; the company was absorbed two years ago by Dow Chemical, which itself is now targered by anti-Carbide activists.

Do I believe Union Carbide paid a steep enough price for the 8,000 people who died due to the company's negligence in Bhopal, India? I do not. But at least the company isn't around anymore. If only the same could be said for misbehaving agencies of the state—the same state that activists would charge with enforcing accountability on corporations.

You want indifference to your customer base? The U.S. Public Health Service (USPHS) allowed 400 Alabama men to suffer with syphilis over four decades in order to study the disease's effects. Three decades after the "Tuskegee experiments" ended, Surgeon General Richard H. Carmona, in full Gilbert and Sullivan admiral's garb, steers USPHS into a new millennium.

Unpunished negligence? No agency charged with protecting the U.S. has been held responsible for intelligence failures prior to the 9/11 attacks. As far as we know, nobody's even had a promotion held up.

WorldCom-dwarfing budget shenanigans? George Herbert Walker Bush left Bill Clinton with deficits beyond anything his administration ever admitted. Clinton (no stranger to avoiding accountability) in turn left George W. Bush with absurdly rosy projections of future revenues. Rather than cutting spending, Bush is spinning out the kind of deficits Enron CEO Jeff Skilling could only envy.

If that's not enough, put this in your Superfund site and dispose of it: The federal government is by far the country's largest environmental polluter, out-dumping any private company.

If any private corporation had engaged in such patterns of malfeasance, fraud, and megabuck sleight of hand, it would have been punished by its customers, shareholders, and employees long before the government got involved. This doesn't mean the market is a perfect or even reliable mechanism for regulating bad behavior. But it does suggest that before we give the job of promoting organizational accountability to the least accountable organization of all, we might remember the line about the fox and the henhouse. ■

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ACTS OF CONTRITION

PETERBAGGE@EARTHLINK.NET

YOUR GAMBLING HABIT HAS BECOME QUITE A SCANDAL, SIR.
WHY? I'M NOT HURTING ANYONE.
PERHAPS NOT, BUT UNLESS YOU STOP OUR ORGANIZATION WILL NO LONGER EMPLOY YOU AS OUR SPOKESPERSON.
?!
LATER...
...I HAVE A GAMBLING PROBLEM...
COACH, YOUR PARTYING HAS GOTTEN OUT OF CONTROL...
HEY, WHAT I DO ON MY OWN TIME IS MY OWN BUSINESS.
WELL, WE DECIDED TO MAKE IT OUR BUSINESS BY FIRING YOU.
!?!
FICHLE ALUMNI SOCIETY
AND SO...
...I HAVE A DRINKING PROBLEM...
AND A STRIPPER PROBLEM...
LISTEN, KIDDO, WE CAN'T HAVE YOU INVENTING FALSE DATELINES FROM YOUR APARTMENT ANYMORE.
WHY NOT? IT'S NEVER BOTHERED YOU BEFORE.
TRUE, BUT A LOT OF PEOPLE AROUND HERE DO CARE ABOUT THAT SORT OF THING...
SO I'M AFRAID I'M GONNA HAVE TO LET YOU GO...
?!
THUS...
...I HAVE A BEING-YOUNG-GIFTED-AND-BLACK-IN-A-RACIST-SOCIETY PROBLEM...
ETC

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Suspected Terrorist

Multimillionaire John Gilmore is suing the government to remain anonymous. Is this the last stand for privacy?

Brian Doherty

It's January, and I'm entering the federal courthouse in San Francisco to attend the opening hearing in the case of *Gilmore v. Ashcroft, et al*. John Gilmore, a computer industry multimillionaire and libertarian activist, is suing the federal government and two airline companies because the airlines demanded to see his ID before they would let him on a plane.

An affable courthouse guard asks me to show him an ID. I comply automatically.

"Did you see the ZZ Top–looking fellow who came through earlier?" the guard at the door says to another one manning the X-ray machine. "When I asked him to show me his ID, he asked *me* to show *him* one."

"Did you?" I call back from the other side of the metal detector.

"Sure, why not?"

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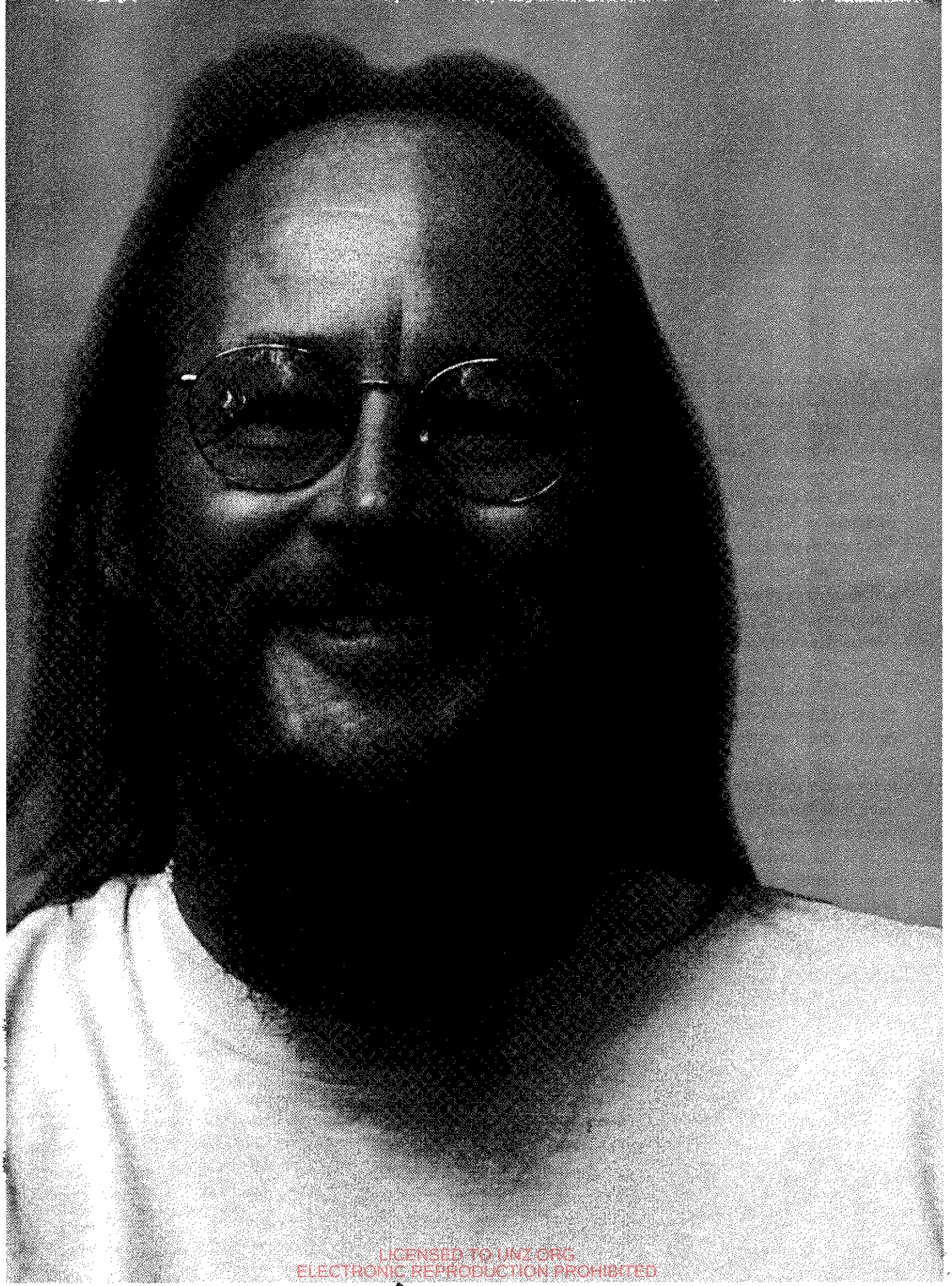

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John Gilmore is in court today because on July 4, 2002, representatives of Southwest Airlines and United Airlines refused to let him board a plane to Washington, D.C., when he wouldn't show them an ID.

Why not, indeed? The world does not indulge those who refuse to flash identification when asked. Earlier that week, I was purchasing my first cell phone. Bursting with bile over such intrusive requests because I'd been researching the Gilmore case, I frostily walked out of one Cingular store after the clerk demanded my Social Security number and couldn't even tell me why. She just blandly, coldly repeated: "It's a necessary part of the form."

After 40 more minutes of driving around Los Angeles and another such demand, I finally found an easygoing young man in a cell phone store who at least had an answer. "We need it for the credit check."

OK. They'd all probably have to do a credit check, right? Wouldn't want my own record mixed with some deadbeat Doherty. I just wanted a cell phone. I went through the familiar ritual: recited the number. Didn't even transpose a couple of digits like I sometimes do. After all, I'm asking them to give me a free phone and start trusting me to pay monthly bills for services already rendered. It doesn't really burden me, and it's *necessary*.

Just like showing an ID to get on an airplane. At least that's what the federal government is trying to convince Federal District Judge Susan Illston today.

Privacy Dogfight

Gilmore enters the courtroom, exuding what they used to call *positive vibes*. He's wearing a bright color-splashed tie and Dr. Seuss socks in open-toed sandals. His hair and beard are long and wispy. He hugs some friends and greets the "ZZ Top–looking fellow" who puckishly challenged the guards. That would be Edward Hasbrouck, a professional travel writer also trying to sever the tightening data webs in which the government is planning to enmesh travelers.

John Gilmore is here today because on July 4, 2002, representatives of Southwest Airlines in Oakland and United Airlines in San Francisco refused to let him board a plane to Washington, D.C., when he wouldn't show them an ID. He wished to fly, he says, in order to personally petition his elected representatives for a redress of grievances. Gilmore thinks the airlines' ID policy is based on a secret demand from the federal government. He committed his act of civil disobedience against the security state on July 4 explicitly for the symbolism.

Gilmore can afford to be here because he made a great deal of money in the 1990s as employee No. 5 of Sun Microsystems and as a one-third owner of Cygnus Solutions, a company sold for what Gilmore vaguely remembers was "around $675 million." (The vagueness comes across as oddly charming, not airily plutocratic.) Gilmore is used to quixotic fights against the legal system. A dedicated libertarian, he spends some of his free time and money agitating for medical marijuana rights, though he is a hardcore abolitionist about all drug laws.

While Gilmore remembers 9/11, when 19 villains used airplanes to murder 3,000 innocent people, he maintains that showing ID before getting on a plane is just a way to make the rubes feel safer. Anyone can flash a card with his or her picture (or someone who looks like him) and a name and address.

Real security, he believes, comes from making sure travelers don't have weapons or explosives on them and having people on planes ready to fight would-be hijackers. Thus, the ID demand—apparently the result of the still-secret government mandate—serves no necessary state purpose and violates his right to travel, his rights to peaceably assemble and to petition his government for redress of grievances, and his Fourth Amendment right to be free of unreasonable searches.

The government wants the case thrown out of court. It wants to convince Judge Illston that the ID regulation in question is "sensitive security information" and must

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remain secret. It also argues that precedent has established that burdens on just one mode of transportation do not limit the constitutional right to interstate travel, and that ID requests aren't really "searches" under Fourth Amendment law.

Judge Illston is exasperated when she can't figure out exactly what it is Gilmore is complaining about. His case appears to mix his specific claim of injury from the ID demand with complaints and fears about "no-fly" lists and passenger screening systems—both the existing Computer Assisted Passenger Prescreening System (CAPPS) and the proposed, more thorough, CAPPS II.

It's all about public safety, Justice Department lawyer Joe Lobue tells the judge. The no-fly list is to identify people known to be a threat to aviation security. Systems like CAPPS II provide pattern clues that indicate people who *might* represent such a threat. We need to know who we are dealing with to make those security programs work.

The judge is equally tough on Lobue. Gilmore's lawyers claim that this mysterious regulation about ID is "void for vagueness," since citizens can't know precisely what the law requires. Lobue insists that it isn't:

Judge: What is the rule, if at all, concerning identification?

Lobue repeats why the government thinks that asking for ID is vital for safety purposes.

Judge: I understand, you said all of that. You were saying the rule is not void for vagueness and we can move on. I just want to know what the rule is that isn't void.

Lobue: If you are asking me to disclose what's in the security directives, I can't do it.

Privacy vs. Openness

The Justice Department hoped it would ground Gilmore's suit. But Illston doesn't accept its motion to dismiss on the spot. As of this writing (late May), she is still contemplating whether the case will go any further, and in what manner. Gilmore's lawyer, Bill Simpich, is confident the case will continue, and is prepared to appeal any decision to dismiss.

After the hearing Gilmore is passing out little buttons with an image of a plane and the slogan "suspected terrorist." Charmed, I pin it to my suit coat. Leaving Gilmore later after lunch in the courthouse cafeteria, I take it off and bury it in the inner pocket of the coat, where I make sure it remains until I've safely flown home to Los Angeles.

Gilmore's efforts will almost certainly prove futile. Even if he reveals the government's secret ID demands and has them rescinded, it won't prevent what happened to him from happening again. The most likely outcome will be airlines declaring that, even absent any federal regulation, it's their policy that everyone shows a government-issued ID before getting on a plane. If that happens, Gilmore is prepared to sue the airlines. He doesn't think such a policy could legitimately be considered separate from a state demand in such a heavily regulated industry.

Gilmore thinks most Americans aren't nearly tenacious enough in defense of their freedoms. "The biggest threat [to privacy] is public complacency," he tells me. Indeed, most Americans—trained to flash ID as naturally as smiles—would find Gilmore's crusade eccentric if not dangerously nuts. He hopes his fight will prove educational for them, even if he fails. "Then the society that results will educate people. But it will be a shame, because it will be harder to win that ground back," he says.

Gilmore is on the front lines of a battle to decide just what privacy will—or can—mean in 21st-century America. The federal government is working on at least two huge programs designed to gather enormous quantities of computer-available data and run algorithms to decide how individuals will be treated. One is CAPPS II, Gilmore's special concern. This program builds on the aforementioned Computer Assisted Passenger Prescreening System, which uses only information in the airlines' reservation system plus a secret government-supplied algorithm to choose who gets set aside for special screening. CAPPS II is intended to use a wider range of commercial and governmental databases to help decide who gets directly on a plane, who gets set aside for special inspection, and who gets the cops called on him forthwith.

The other program, more wide-ranging and ominous, was originally known as Total Information Awareness but is now being called Terrorism Information Awareness (TIA). Although Congress demanded an explanation of the program's intent and privacy effects and forbids its actual deployment pending legislative approval, TIA's parent agency, the Defense Advanced Research Projects Agency, is gleefully forging ahead, paying private contractors to begin developing the system. Shrouded in rumor and panic, TIA is apparently meant to mine data from the full body of available information, from both public and private sources, in order to find patterns that hint at nefarious goings-on.

TIA's precise parameters and proposed goals remain uncertain. That may change when the program becomes fully operational—or it may not. Either way, it hasn't stopped privacy and security mavens from gathering at learned con-

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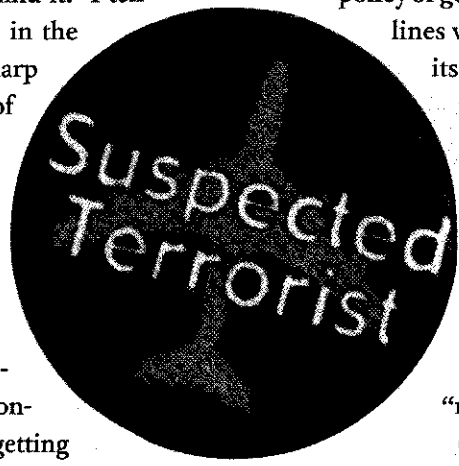
ferences and debating whether it will be Big Brother reified or a sensible security tool.

Strengthening the state's ability to instantly check every bit of information ever recorded about us in a computer—potentially including insurance claims, credit records, magazine subscriptions, travel plans, and on and on—certainly intrudes on our privacy. But why—especially in a post-9/11 world—should Americans particularly care, after balancing the costs with potential benefits? Why does John Gilmore worry about an airline knowing who he is? Why should you worry if the federal government knows what's in your credit report or whether you've paid your municipal fines?

All these questions might be moot. Some privacy theorists have concluded—in sorrow if not necessarily in anger—that privacy, defined as the ability to keep information about ourselves to ourselves, is already dead and buried.

Science-fiction writer David Brin, in his influential non-fiction book *The Transparent Society* (1999), posited that it's impossible to keep most facts about ourselves private. We could sit and whine about it, he declares, or we could smarten up and realize that the most precious aspect of our very wealthy, very free Western world has *never* been privacy, secrecy, or anonymity. Rather, it has been a free-wheeling openness, with information flowing everywhere. Brin believes that data must flow in all directions: not just from the bottom up but from the top down, not just to the state but about the state, not just through our bedrooms but from our courtrooms.

Brin argues that the endless fight to preserve civil rights by trying to close the government's eyes is futile. We can watch government, but we can't blind it. "I tell people to go to the zoo and climb in the baboon cage," he says. "Take a sharp stick and try to poke out the eye of the biggest baboon. He won't let you. But he may reluctantly let you look at him."



Plans like TIA don't surprise Brin a bit. "There is no way on God's green earth to keep elites from seeing," he says. The technologies of surveillance and information-gathering and processing are getting smaller, more efficient, and more ubiquitous. Miniaturized cameras, recording devices, and global-positioning satellite (GPS) technology—to name just some of the relevant technologies—mean the bogeyman of cheap, universal tracking is already here.

Brin insists that freedom and civil rights, even for dissidents, will be able to survive in such a world. In fact, he provocatively suggests that they might even thrive, as surveillance technologies are used to keep the powers-that-be in check (remember Rodney King?). In any case, given our tribal past, Brin argues that anonymity of the sort Gilmore craves is unnatural for human beings. He offers a thought experiment in his book to show how transparency can aid, not quash, the outré and dissident: "If you see a person engaged in some bizarre activity in your neighborhood—perhaps performing a strange dance, or erecting a mysterious device, or just mumbling to himself"—what will make you feel at ease, less likely to investigate or suppress the behavior? If it is a "total stranger" wearing "a ski mask and a heavy overcoat" who refuses to tell you anything about himself, or if it is someone "whose life history is familiar, who readily answers questions?"

For his part, Gilmore is "glad David started this conversation" on what privacy can mean. "But I part company on his policy proposals. His answer to it being easier to wiretap is to give everyone the capacity to wiretap everyone all the time. That's repugnant to the principles of this country, and while it's a neat rhetorical way to get rid of the problem, it's not compatible with our society."

Privacy War Quislings

John Gilmore is not the only person to run afoul of airline security recently. The ID demand dates back to an earlier airline terrorism scare in 1996, and has remained cloaked in secrecy and opposing claims over whether it was airline policy or government mandate. Both the feds and the airlines wanted the policy, and each wanted to blame its creation on the other. Freedom of Information Act requests have failed to ferret out the truth; as noted above, even federal judges making decisions about the regulation can't be trusted to know what it is. Many people have written their congressmen with complaints about being singled out for special scrutiny because their names are similar to names on the already existing watch lists or "no-fly" lists.

CAPPS II is, like TIA, still in flux; a legally required privacy-act notice filed on the program in January made it sound alarming indeed, and blithely stated that information gathered could be released more or less to anyone for any purpose, including the news media. For "individuals deemed to pose a possible risk to transporta-

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Most Americans don't really *care* very much about their privacy. There are plenty of Americans "who would give away their life story for a Big Mac," observes Sonia Arrison of the Pacific Research Institute.

tion security" (under unstated standards), the records would be kept for 50 years; for all others, supposedly purged at the end of your flight.

Since then, Transportation Security Administration (TSA) representatives have met with representatives of the privacy rights community and discussed a less-thorough tracking program. While no one at TSA said this explicitly, it is possible that the early warning system of privacy-conscious interest groups and media might actually rein in CAPPS II. Lara Flint of the Center for Democracy and Technology, one of the activists who met with TSA representatives, reports that TSA now says that commercial databases will only be checked to help verify identity in most cases—and that further examination of the databases will involve only those who don't check out in that first identity-verifying inspection (to, for example, see if there is a previous paper trail of this name living at this address). And according to a TSA press release, "TSA will not see the data used to generate those scores" that mark you as free to go or subject to further scrutiny.

Still, despite lacking explicit congressional authorization, TSA made a deal with Delta airlines to start test runs of CAPPS II at selected airports this spring, which led to a ferocious Web-based boycott campaign against the airline, one that generated lots of anger and e-mail even if it hasn't brought Delta to its knees. "Do you really want to trust Delta with your bank account, SSN, mother's maiden name, or credit rating?" asks Boycott Delta majordomo Bill Stennett at boycottdelta.org. "By their own admission, Delta's computer servers are attacked over 500 times a day."

While others have had complaints about airline ID requirements, Gilmore is unique in making them a federal case. Most Americans, it seems, don't really *care* very much about their privacy. There are plenty of Americans "who would give away their life story for a Big Mac," observes Sonia Arrison, who studies privacy issues for the Pacific Research Institute and who prefers market solutions over regulatory ones for consumer privacy concerns.

If government in our representative democracy is supposed to respond to people's stated concerns, then government punctiliousness about privacy might actually be *exceeding* the public's demands. Consider for example:

• Americans' near-universal willingness to embrace the convenience of credit cards and ATM cards even though they create permanent records of what you buy and when and where you buy it, and when you obtain cash and in what amount.

• The widespread use of car transponders that create permanent records of each time your car passes a toll booth, just so you can avoid stopping and rifling through your pockets for change. (Where available, these devices tend to win the patronage of over half of motorists, according to Peter Samuel, editor of *Toll Roads Newsletter*.)

• The popularity of supermarket club cards that collate permanent records of your grocery spending just so you can get 12-packs of Diet 7-Up on the cheap.

• A recent poll showing that three-fourths of a polled group of frequent business fliers would be "very" or "extremely" willing to undergo fingerprint scans and 61 percent equally thrilled to have a national ID card with thumbprint if only they could move faster through those goddamn airport security lines.

In practice, the overwhelming majority of us are more than happy to accept the conveniences that make tracking and database building possible. We thus have a lot of databases for a TIA to choose from—more than anyone (or any database) has even tallied.

Only the Guilty Have Reason to Fear

Still, we don't have a fully functioning database nation yet. Private investigators and database management spokesmen point out that we do not yet live in a world where

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The laws that defend our privacy are confused at best. Government seems more intent on tearing down, not strengthening, the flimsy curtains we draw around our lives. Technology is doing the same.

someone can pop your name into a computer and have a fat dossier come shooting out of the LaserJet with your name, address, income, bad checks, and old girlfriends in a convenient list, even though private—and government—databases do continue to multiply.

D.C.-area private investigator Ken Cummins sounds like David Brin when he points out that databases are of enormous help in totally legitimate tasks—making people pay their debts, finding fleeing miscreants. Obscurity is indeed the friend of much of the world's evil, as Brin insists when he rails that "financial privacy" concerns are just camouflage for drug dealers and tax evaders. But even in this high-tech world, private eyes often have to find things out through phone calls, physical tracking, and digging through garbage, just like in the old days.

It's also clear from examining the techniques of private eyes that laws restricting who has access to government databases don't mean much—the real danger comes from those with a legitimate reason to use them. Sometimes the best way to get information from privileged databases is to apply persuasion to those who have professional access to them. As many real-world cases show, any system with a human element is inherently insecure. As James Lee, marketing chief of ChoicePoint, tells me, most of what professional database companies pull together for their clients comes from tedious collation of public records—in other words, from the government.

Not that the government provides no protection for your privacy. Specific public controversies have led to specific privacy laws. Robert Bork had his video rental record made public, and we got the Video Privacy Protection Act of 1988. Actress Rebecca Schaeffer got murdered by a stalker who found her address through state motor vehicle records, and we got the Drivers Privacy Protection Act of 1994. It's doubtful, though, in the post-9/11 environment, that any personal embarrassment or tragedy that accompanies things like CAPPS II will lead to crisis laws to protect travelers' privacy.

When it comes to protecting information about ourselves—our privacy or, as John Gilmore wishes, our *anonymity*—what can we do about it? What *right* do we have to do anything about it?

Many privacy concerns are more a matter of sensibility than of objective injury. It is probably true that in most cases a lot more trouble will come from refusing to show an ID than would ever come of showing it. When I talk to people about this story, those who aren't professional privacy activists often ask me, *Why the hell is Gilmore fighting about this?* Still, some people do consider it an affront that anyone would demand private information from them that they have no good reason to obtain.

Most objections to Gilmore's beliefs about anonymity and privacy can be reduced to the familiar slogan: *Only the Guilty Have Reason to Fear*. Why, if you have nothing to hide, do you care who knows who you are, your credit and medical records, or what you've been reading in the library and renting from the video store?

That slogan may be silly, but it's important. Not because it settles any arguments, but because it delineates boldly what's at stake. It also makes possible a similarly bold, clearly widely believed, yet rarely voiced response: *We are all guilty, and we don't want to live in a world where there is no room to get away with being guilty*.

As the Pacific Research Institute's Arrison says, "We all make errors and mistakes, and if we are constantly slapped for every single thing we do, it would make a really terrible place to live. A society that expects us all to be infallible is unnatural."

Secure Beneath Watchful Eyes

Imagine an airplane flight in a very plausible future in which John Gilmore's fight has been lost. While not every-

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thing in it is happening now, there are few technological or legal barriers to keep this scenario from becoming real in the near future.

On your way to the airport, you are passing tollbooths while your transponder makes a record of where you are. Your cell phone is GPSed, and your phone records could identify where your phone is or was at any time. Your car is also equipped with a transponder-triggered traffic-law enforcement device that spits a speeding ticket out of your dash every time you exceed the speed limit for more than a minute, the sum precisely calibrated to the level of your crime. (You got a problem with that? Only the guilty have reason to fear!)

As you enter the airport, you pass security screening devices that check the RFIDs—radio frequency identification devices—that are built into almost every consumer item in your car, including your tires. The information is checked against a database that includes who bought each item, where and when they purchased it, and for how much. As you park, security cameras run your face scan against a database of known or suspected criminals.

As you check in, your biometrically encoded national ID (a perennial legislative favorite, though not in active play at the moment) is scanned and your identity is checked against every available database the government can access, public and private. This will likely include, among many others:

- the DNA database (which the Bush administration is now trying to expand from convicted adult criminals to all arrested suspects and juvenile criminals);
- the "deadbeat dad" database (a poster child for the inevitable mission creep of all government databases, it has already expanded in just a few years to be used to track down student loan deadbeats and unemployment cheats);
- the National Criminal Information Center database (39 million criminal records right now, and the Justice Department in March declared that it no longer had to worry about the former statutory duty to make sure the information in it was accurate);
- gun buyer and sexual predator databases;
- various state databases on users of certain controlled prescription drugs; and
- the centralized health database made possible through the Health Insurance Portability and Accountability Act's single health identifier number. This last is officially law, though because Congress has zero-funded it every year it is not yet in operation. Rep. Ron Paul (R-Tex.) glumly predicts that it might be funded this year, thus ending the current practical obscurity that keeps our medical privacy relatively safe.

With all that information, the airline could judge whether you pose a health threat or a security threat, or whether you should have a long talk with a law enforcement officer.

Do we want to live in a world where getting on a plane depends on having every single drive, debt, trip, interaction with a doctor, and violation of a statute scrutinized—even if we think we aren't "guilty" and thus have "nothing to fear"? The ultimate privacy fear is of course the *reductio ad hitlerum*: Imagine Hitler with a database that told him who and where all the Jews were. The full range of what *guilty* can mean in a database nation suddenly seems more sinister.

Rounding up the Jews is not going to happen in America, but there may be many worrisome things that the government might want to know about you and might want to keep on record, a record that will follow you everywhere you go and be a factor in everything you try to do: drug-use history, gun-use history, membership in or aid-and-support of certain organizations that may in the future be considered subversive or terrorist. Ask the peace activists kept off planes by the no-fly list—probably (though no one is sure) because Secret Service watch lists were thrown into the mix. Every missed payment on every bill and ticket, every old debt, and with RFIDs, every object we have on our person and where we bought it could easily be known by any government official who wanted to know—for whatever reason.

Do only the guilty have reason to fear? That *is* your old unpaid traffic ticket, right? Maybe it isn't. Data management consultant Larry English of Information Impact stresses just how shoddy the data management and confirmation practices of many commercial databases are. No one knows how many mistakes are out there, but there are certainly plenty. And the consequences of such bad information in a TIA and CAPPS II environment can be severe.

Who Owns "Private" Information?

As the "we are all guilty" argument suggests, the concerns of some privacy activists are about preserving old definitions of privacy in the face of new technology. The ability to delve ever deeper into our lives will force us to grapple with continually new questions about technological possibility and social acceptability. "Genetic privacy" defenders, for example, insist there should be laws keeping insurance companies from knowing your genetic details, since they could use them to assess more accurately any genetically based health risks and charge you more for insurance.

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If our rights to anonymity and privacy mean anything to us, we have to be willing to inconvenience ourselves, as Gilmore has done. I may doubt his ability to win his case, but his struggle strikes me as heroic.

Yet why is it OK for an insurance company to know, say, that I am a 34-year-old male with a particular car and driving record, so it can calculate my car insurance rate, but not know things about my genes in order to calculate my life insurance rate? Should all insurance be generic, with the company knowing nothing about our relative risks? Is there a right—or at least a socially established principle—that we should be able to keep certain data secret in our dealings with our insurance companies, merely because knowing such things was once difficult or impossible?

Unknotting privacy dilemmas from first principles can be tricky, or at least lead to results that don't jibe with most people's felt intuitions. There is a respectable libertarian pedigree for the argument that you don't have *any* rights over any information about yourself that might be floating around. That notion is based on the principle that to the greatest extent possible, rights should be seen as property rights: the right to do what you will with what is rightfully yours, starting with your own body.

From those Lockean beginnings, one can decide that once information enters other people's heads (or databases) without any force or fraud, it now belongs to them to do with what they will. Legal attempts to stymie this process would be free-speech violations—attempts to limit what people can do with what they know. This principle would undercut most of the concerns of the official privacy activist community, who tend to look askance at commercial database collection for the purposes of marketing and deciding what to charge people.

There is a tension in the privacy activist community between the perception of government as the great violator of privacy and the perception of it as our champion against the depredations of rapacious marketers. But ultimately all marketers want to do with information about you is pitch products more effectively. The real threat that private databases pose is limned by TIA—that they can and will be accessed by the government for its own purposes. Businesses can and will market obtrusively, but in the end they need their customers' good will and are at least in theory amenable to contract to regulate what they do with the information they collect. Government can and will jail you—and unless you happen to be part of a significant voting bloc, it doesn't particularly care what you think about it.

Once a technology is out of the box, it can't be taped back up and returned to the manufacturer. People will do what people are able to do. But they won't necessarily do it *all the time*. Good sense, kindness, and decency can be surprisingly potent weapons against unchecked human power and ambition, as can convention and even new technologies. Answering machines and call-muting, for example, evolved to manage the privacy-shattering powers of the telephone, a device that allows strangers to set off alarms in your house simply by punching a few numbers on a remote keypad. Technology's eyes and ears are spreading, as are the "brains" to process the signals that ceaselessly pour in from them. But will these sensors inevitably be *everywhere*?

The technological know-how that leads to privacy-destroying devices could also lead to mechanisms to disable those devices, or to render unnecessary some innovations potentially hazardous to privacy. For example, the VeriChip—essentially an RFID implanted in your body—could contain all your medical records. No outside database would be needed; any doctor could access your vital data from the chip.

In many significant areas of life, the legal and technological fight for privacy appears to be over. Your employer pretty much has the right—and the ability, thanks to aforementioned technologies and things like keystroke-recording software—to snoop on everything you do, say, and write while on his property. It is an irony little appreciated by those who call on the government to protect your privacy from your boss that the biggest job-privacy concerns are

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caused by government policies. These include the tax laws that link health insurance to your job and thus make all your choices—even in private life—part of the boss' bottom line, and the occupational safety and discrimination laws (and lawsuits) that drive most employer record-keeping.

Courts have declared that being visually snooped on in public spaces is just fine, since you have no meaningful presumption of privacy there. Thus the awesome proliferation of video surveillance cameras. No one seems to know exactly how many are out there—national estimates range from 2 million to 11 million. In New York, the Surveillance Camera Players, a guerrilla theater group, is trying to change the social consensus about these cameras. Members count cameras and, when they find them, map them on the World Wide Web. Such grassroots activism and information-sharing might do more to help individuals make their own choices about how much privacy means to them than will any national legislation.

I Love to Fly and It Shows

At the root of most privacy complaints, whether aimed at marketers or at the state, is the desire not to be bugged, in the term's common colloquial sense: not to be bothered, not to be harassed. That people know certain things about us can creep us out—but should that mean we should restrict them from seeking out and spreading such knowledge, if done peacefully? We don't want e-mails or phone calls or mail we didn't ask for. (Except that some of us do at least some of the time, which shows why imposed legislative solutions to privacy concerns can't be optimized for everyone.) One of the benefits of modernity and urbanity over traditional life, as David Brin acknowledges, was that they allowed us to escape the village realities where everyone knew everything about us and judged us based on that knowledge. We came to the city to immerse ourselves in a soothing bath of anonymity.

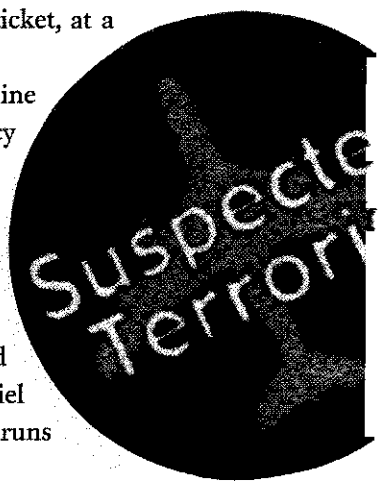
The privacy rights movement doesn't talk about this much, but this very search for anonymity was the foundation of the modern database nation. Credit, for example, was originally based on merchants' personal knowledge of you and their judgment of your probity. But to enable a world where credit institutions can guarantee you everywhere on the planet, national institutions need to collate and check information easily. There's a reason the credit business—and the credit report business—has been steadily consolidating over the past 100 years. It is a very helpful, easy, convenient world. It is also a database world. Yet in some senses, it's a *more* private world because *each* individual merchant doesn't have to know a damn thing about you as long as the Visa system vouches for you.

The laws that supposedly defend our privacy are confused at best. Government right now certainly seems more intent on tearing down, not strengthening, the flimsy curtains we draw around our lives. Technology is doing the same. However, for every public surveillance camera, as one anti-camera activist has pointed out, there can be a laser pointer that temporarily disables it. And, perhaps more importantly, a clown to point it out and mock it.

David Brin, that prophet of a transparent society, laments the passing of the world he has verbally buried. It was fun while it lasted, this historical interregnum between the lack of privacy in the village and the lack of privacy in the bustling techno-metropolis. But lonely, too, he guesses.

The anti-Brins in this argument—best exemplified by the tireless John Gilmore—argue that we can fight and win ground. If our rights to anonymity and privacy mean anything to us at all, they say, we have to be willing to inconvenience ourselves for them, to pay for them, as Gilmore has done. I may doubt Gilmore's ability to win a meaningful victory, but his struggle strikes me as heroic. Still....

While working on this story, I needed to get to Atlanta. I found a surprisingly cheap ticket, at a perfectly convenient time.



It was on Delta, the airline that so raises the ire of privacy advocates because of its willing collaboration in testing the heinous CAPPS II system. I knew everyone concerned about privacy was supposed to be boycotting Delta. I'd even heard the anti-Delta spiel directly from the fellow who runs boycottdelta.com.

But I felt confident there was no information in any database anywhere that would keep me from getting on the plane. *Only the guilty have reason to fear.* And the ticket was more than 35 percent cheaper than anything else I could have gotten for that time. *We'll give away our life story for a Big Mac.*

I bought the ticket. ▯

Associate Editor Brian Doherty (bdoherty@reason.com) is writing a book on the annual Burning Man festival, to be published by Little, Brown.

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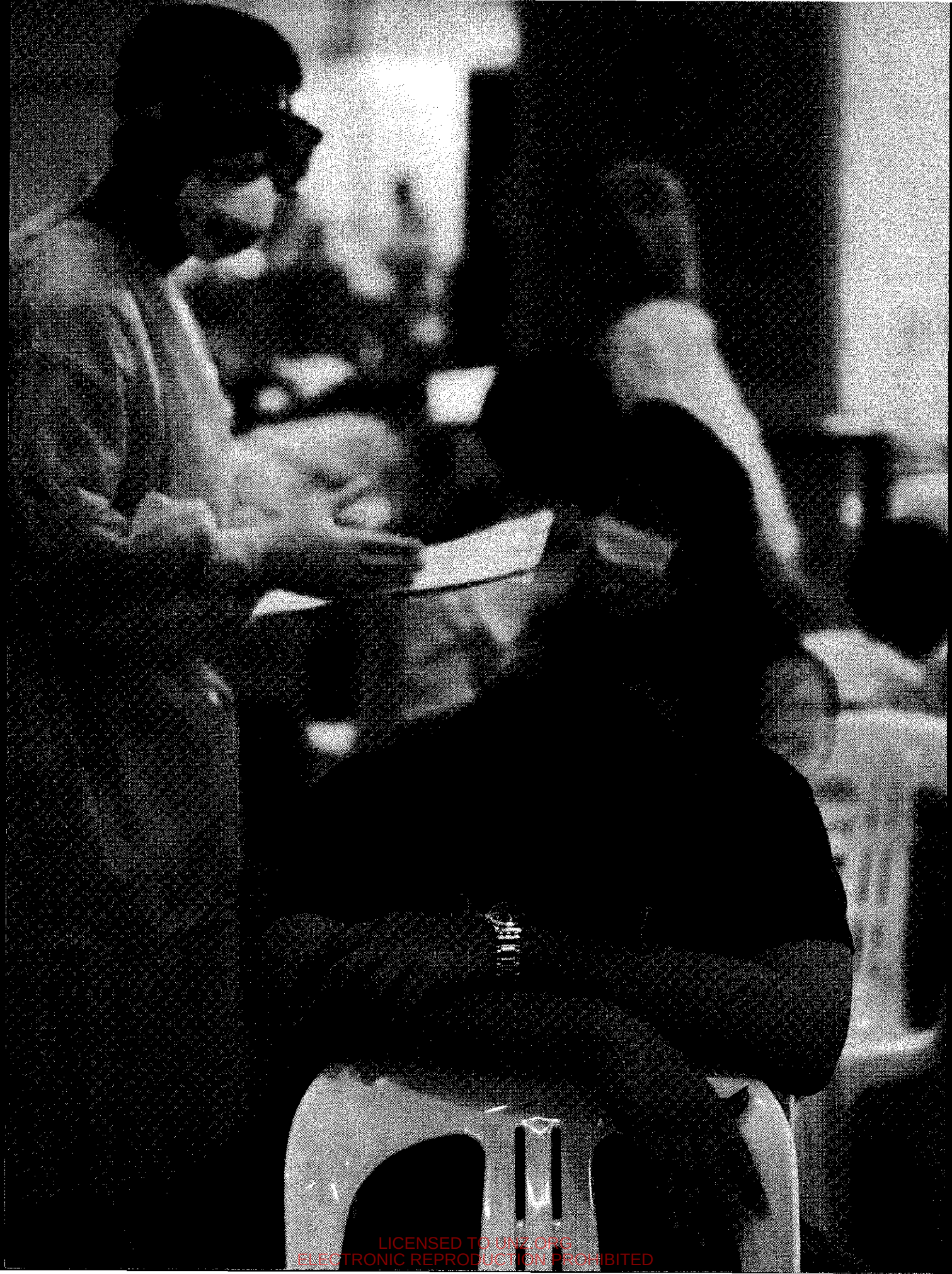

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Something's in the Air

Liberties in the face of SARS and other infectious diseases

Declan McCullagh

VISITING SINGAPORE IS a little like flying into some twisted *Father Knows Best* time warp. Lining the streets next to such familiar stores as Reebok, Esprit, and Timberland are government ministries with names like "Board of Film Censors," along with buildings housing the "Social Development Unit" state-run dating service and the "Home Ownership for the People Scheme."

For a few weeks in April and May, such downtown streets were speckled with gauzy white squares: mask-wearing Singaporeans fearful of catching the deadly SARS pneumonia. They had reason to be concerned. According to the World Health Organization, Sudden Acute Respiratory Syndrome kills roughly 15 to 20 percent of the people who contract it, and it had been spreading through parts of Asia faster than pirated copies of the latest Microsoft beta release. What's more, the average death rate can be misleading. SARS is an age-sensitive disease: If you're over 65 years old and you have the misfortune of being infected, the WHO believes your death-rate odds are a dismaying 50 percent or higher.

Singapore's nanny-state meddling and unabashed authoritarianism may have spared it the worst. Even though it had the third-worst outbreak of SARS, behind China and Hong Kong, Singapore's death rate was 15 percent, lower than the less severe North America outbreak centered in Toronto. (Canada's death rate, as of press time, was 17.5 percent.)

The reasons for the difference are complex and unclear. SARS has been mutating into strains of varying lethality, and a lone "super spreader" infectee can lay waste to an entire hospital that isn't properly prepared. Another explanation for Singapore's comparative success in containing SARS is its single-minded determination to take whatever steps necessary, with scant regard for such individual liberties as the right to travel and associate freely. This is the city-state the cyberpunk writer William Gibson once described as "Disneyland with the death penalty": While free trade is largely embraced, chaos is verboten. Chewing gum sales are prohibited. Sell drugs, you face the gallows. Canings are routine. *Playboy*, *Penthouse*, and *Cosmo* are all banned.

When SARS hit, the authoritarian proclivities of Singapore's government were channeled into aggressive quarantines. After a few possible SARS cases were identified at the popular Pasir Panjang Wholesale Market, the state took no chances. Nearly 2,000 people who had worked at the market between April 5 and April 19 were placed under mandatory home quarantine for 10 days. Health Minister Lim Hng Kiang said a team of 50 to 60 nurses would make house calls on quarantined homes, and the government would

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Under current federal law, 42 U.S.C. 264, the Surgeon General has broad power to "make and enforce" any rules that may be necessary to prevent the spread of communicable diseases. The law makes for fascinating—if disquieting—reading.

offer a daily home quarantine allowance of $41. Web cams were installed in quarantined homes for surveillance, with residents asked to step in front of the camera on demand. Anyone nabbed for flouting the quarantine was outfitted with an electronic tracking bracelet.

Medical Powers

The good news—for now—is that SARS is less of a threat than it was a few months ago, though it could return with a vengeance when winter comes to the northern hemisphere and people spend more time inside in close quarters. As of this writing (late May) there have been no confirmed SARS deaths in the U.S., and an analysis prepared by *The New England Journal of Medicine* indicates that the worldwide SARS growth rate is more arithmetic than exponential.

But if the virus does return, other nations besides Singapore will have to balance suggestions such as broad quarantine orders with the preservation of civil liberties and the rights to privacy, property, and freedom of movement.

What does this mean for the U.S.? What might happen is anyone's guess, but imagine if there were a serious outbreak this fall that threatened to overwhelm the nation's health system. This is the kind of scenario the Centers for Disease Control and Prevention (CDC) dreads—one in which hospitals are deluged with scores or hundreds of patients showing up at the same time. As physicians in Singapore and Hong Kong found out, emergency rooms and critical care wards can be lethally efficient in spreading SARS. Government officials at the state and federal level have been warning since 9/11 that the U.S. is not prepared for a biological attack. SARS appears to be natural in origin, but the effects could be the same.

So consider, as a thought experiment, what might happen in the U.S. after a major outbreak of SARS or a similar communicable disease.

We already know that President George W. Bush has signed an executive order triggering a World War I–era law that lets him add SARS to the ranks of such diseases as cholera, smallpox, and the plague. The current version of that law grew out of well-justified fears of the deadly flu epidemic of 1918, sometimes called Spanish influenza, which infected about 28 percent of all Americans and killed about 675,000—about 10 times the number of U.S. soldiers felled in battle during the war. Globally, over 30 million people died, and even President Woodrow Wilson was infected in early 1919 while negotiating the Treaty of Versailles.

Reactions to the 1918 epidemic provide a cautionary tale. State governments across the U.S. responded by levying quarantines and imposing mask laws. In San Francisco, the city sterilized public telephones and drinking fountains. It also required people to wear gauze masks in all public places, giving rise to the far-too-optimistic slogan: "Wear a Mask and Save Your Life! A Mask is 99% Proof Against Influenza." In November, city sirens wailed to signal that it was safe to remove the masks—an announcement that was terribly premature, as thousands more people came down with influenza the following month.

In Philadelphia, city officials made the fatal mistake of sending mixed signals. While one agency was warning against public coughing, sneezing, and spitting, the Department of Health and Charities was informing the public that influenza would not spread outside the military. Then, over a matter of weeks, nearly 13,000 people died. Too late, the city government ordered schools, churches, theaters, and other public gathering places closed. Elsewhere, "open-faced sneezers" were fined and the District of Columbia

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imposed blanket quarantines that restricted residents to their homes.

The history of quarantine dates back at least to the Bible's Leviticus 13, which describes a seven-day period of isolation that priests must impose when an infection is apparent. Quarantine literally means a period of 40 days, which cities along the Mediterranean shipping routes imposed during the plague of the 15th century. English common law recognized that a government must take aggressive steps to limit the spread of plague, a concept that was adopted by the American colonies and the young Republic. In the 1849 case *Smith v. Turner*, the Supreme Court described early efforts at quarantine in New York: "Never did the pestilence rage more violently than in the summer of 1798. The State was in despair. The rising hopes of the metropolis began to fade. The opinion was gaining ground, that the cause of this annual disease was indigenous, and that all precautions against its importation were useless....The whole country was roused. A cordon sanitaire was thrown around the city." At times, Bedloe's Island—where the Statute of Liberty is today—and Ellis Island have been used for quarantines.

And today? Under current federal law, 42 U.S.C. 264, the Surgeon General has broad power to "make and enforce" any rules that may be necessary to prevent the spread of communicable diseases. The law makes for fascinating—if disquieting—reading.

It gives federal officials the authority to appoint quarantine officers, establish quarantine stations, and detain Americans "reasonably believed to be infected" with a communicable disease. Anyone violating a quarantine order can be punished by a fine of up to $1,000 and a one-year prison term. The law applies only to a list of deadly and easily communicable diseases that the president may amend at will, which Bush did in his executive order that added SARS to the list.

The Tradeoff

Then there's MEHPA, the proposed Model Emergency Health Powers Act, which began appearing in state capitals soon after the anthrax scare of late 2001. It expands upon the emergency authority that many cities and states already have arrogated themselves for times of crisis, making explicit what powers public health officials will have.

Among them: seizing property and land as "necessary to respond to the public health emergency," forcibly vaccinating Americans against infectious diseases, and quarantining those who refuse. No court order is necessary to detain someone: "The public health authority may temporarily isolate or quarantine an individual or groups of individuals through a written directive." Backing the proposal are the CDC, the National Governors Association, the National Conference of State Legislatures, and the National Association of County and City Health Officials. So far about two dozen states have enacted MEHPA into law.

MEHPA highlights the difficult tradeoffs of balancing individual liberty with community security. While it is a serious step to limit a person's freedom of movement, there seems to be little alternative in the case of highly infectious communicable diseases. The question then becomes how the law should be worded and how it might work in practice. Critics warn that earlier versions of MEHPA would have handed governors the power to declare public health emergencies over tobacco smoke or obesity—and seize an extremely dangerous amount of power in the process. The liberal American Civil Liberties Union and the conservative Free Congress Foundation and American Legislative Exchange Council joined to oppose it.

According to the ACLU, MEHPA permits a governor to "declare a state of emergency unilaterally and without judicial oversight, fails to provide modern due process procedures for quarantine and other emergency powers, it lacks adequate compensation for seizure of assets, and contains no checks on the power to order forced treatment and vaccination."

Such powers can be used carefully and can be wildly abused; it's far too early to make predictions. Yet it's worth remembering—and the 1918 flu epidemic is a major reminder—that government officials are as prone to mistakes as anyone else. Guénael Rodier, the World Health Organization's director of communicable disease and response, recently admitted that the organization could have done a much better job of responding to SARS early this year by making an earlier public warning. If that had happened, "Toronto would very likely have been spared a SARS outbreak on the scale it has worked so admirably to contain," Rodier wrote in a commentary for the *Canadian Medical Association Journal*. Richard Schabas, a former minister of health for Ontario, has

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accused provincial officials of not analyzing SARS data properly, and causing unnecessary panic by overreacting when the disease was confined to hospitals.

Panic, and Other Responses

That's hindsight, of course. But overreaction is a threat whenever governments face an apparent crisis. Officials may respond to pressure either because they believe the crisis is genuine or because they think the appearance of activity on their part is necessary to head off panic. Who wants to repeat what Toronto experienced, when the WHO drove a stiletto through the heart of tourist travel by effectively declaring it a SARS hot zone?

Take what happened in 1998 and 1999, during the so-called Y2K computer glitch. Canadian newspapers reported at the time that the government was considering martial law and the invocation of the Emergencies Act in response to Y2K disruptions. In the U.S., Sen. Robert Bennett (R-Utah) asked the Pentagon what plans it has "in the event of a Y2K-induced breakdown of community services that might call for martial law"; a House subcommittee recommended that then-President Clinton consider declaring a Y2K "national emergency."

One traditional way to manage public reaction is to manage tightly the flow of information, a task that technological advance has made more difficult. Reports of the spread of SARS, for instance, rocketed around the globe even faster than the virus itself. During the early days of the outbreak, an intensive-care specialist at a hospital in Hong Kong turned to e-mail lists to distribute his stark, first-hand reports. "This pneumonia is out there in the community," Tom Buckley told the Critical Care Medicine mailing list on March 24, in a widely forwarded message. "The numbers are increasing daily, and a third hospital is being prepared for the influx. How big this is going to get is anyone's guess." Buckley warned that the Hong Kong government "is downplaying the whole thing presumably because of the economic implications." Buckley's post was prescient. In the two months following his warning, cases of SARS in Hong Kong leapt sevenfold, from 260 to over 1,700 infections. (When contacted for a response, Hong Kong's Health, Welfare and Food bureau replied with a statement saying: "To reassure you that we are not trying to downplay any of the effects, we recognize that in fact the public health considerations must be first and foremost and all the other things are secondary to this.")

In China, the birthplace of SARS, the communist government lied for months. Beijing officially, and implausibly, denied the existence of hundreds of SARS patients in hospitals that had been visited by Western journalists. Then China Premier Wen Jiabao took the unusual step of saying that while progress had been made in limiting the spread of SARS, "the overall situation remains grave." This is the same government that last year, in just one day, upped its official estimate of HIV infections from 30,000 cases to 1 million. In a sign of China's growing desperation, the government said in May that those who break quarantine and spread SARS would be executed. If authoritarianism helped save lives in Singapore, in China it has been deadly.

In this climate of official deception, misinformation about SARS has been spreading so efficiently it would do the common cold proud. Some residents of China's Shanxi province reportedly place their faith in steamed vinegar. A Singapore department store advertises perfume atomizers as effective SARS countermeasures. A teenager's Web hoax claiming Hong Kong's borders would be closed prompted runs on canned foods and toilet paper. A supermarket owner in Sacramento spent two weeks arguing that, contrary to rumors, neither he nor his family is infected with SARS and his stores are entirely safe. A Sacramento city councilman tried to quell panic by bravely chewing a ceremonial Granny Smith apple from the store's produce section in front of reporters.

An in-depth *New York Times* analysis showed that America is not immune to this 21st-century information contagion. The *Times* reported that high levels of anxiety existed in states such as New York, California, and Washington that experienced the most SARS cases or had sizeable Asian-American communities. New York City Mayor Michael Bloomberg was worried enough about public panic to dine in a Chinatown restaurant and then hold a press conference about it. OnlineAllergyRelief.com, an Internet retailer in Metairie, Louisiana, that sells air filters and purification products, reports that business is booming. "We have gone through case after case of masks," a representative says. "They're just slow to come in now....A lot of things are back ordered. Our manufacturer doesn't have a really big supply."

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While technology may aid panic-mongering, technological advance is also what makes the fight against SARS so different from previous epidemics. Technology lets researchers collaborate in ways simply not possible just a few years ago.

Panic mongers inevitably arise to prey on public nervousness. Web sites of dubious provenance tout dietary supplements—colloidal silver, oregano oil—as effective anti-SARS measures. Spam touting SARS remedies is on the rise. Gary North, the Christian Reconstructionist who has made a living predicting that modern society will end in panic and ruin, has seized on SARS. In 1980, North forecast rationing of housing and a nuclear war with the Soviet Union, warning his followers to buy "gold, silver, a safe place outside the major cities." Later he found rich topics in AIDS and then Y2K, recommending to his newsletter subscribers that they head for the hills to avoid total social collapse. In an announcement in April, North seized on SARS. He wrote: "It's a race between medical science and the bugs. There is no scientific reason to believe that the scientists will always beat the bugs."

Perhaps not. While technology may aid panic-mongering, technological advance is also what makes the fight against SARS so different from previous epidemics. Technology lets researchers collaborate in ways simply not possible just a few years ago. Perhaps the most impressive way in which research has been accelerated is in the analysis of the virus' complete genetic code. More than a dozen sequences of the virus—all demonstrating slight differences, which is typical for a coronavirus—are up on the WHO's Web site. As a result of this genetic sequencing and collaboration, companies like AVI BioPharma in Oregon think that the first drug to combat SARS could be available in months, not years.

Henry Niman, a Harvard instructor in surgery at Massachusetts General Hospital in Boston, has long studied retroviruses. He says the collaborative process normally would have taken researchers at least months. "The fact that the virus has been sequenced in two weeks by two groups, that's pretty quick," Niman says. "That's unprecedented speed. You would probably not have had two groups going simultaneously if you didn't have this information out there. The exchange of information has sped things up."

Niman cautions against SARS complacency. "It's not really clear that the epidemic is that much under control," Niman says. "This has the potential to spread very dramatically. It's something that many people are trying to slow down. How successful that's going to be is an open question."

Nearly 100 years ago, the Spanish Flu tested medical science's ability to respond to a deadly worldwide threat, with researchers in 1918 venturing beyond the germ theory of disease and postulating the then-novel existence of a virus as the cause of the infection. Their attempts to unravel the mystery of influenza soon led to the creation of a hybrid vaccine administered to the British military.

Today, researchers already have used the virus' genetic sequence to create tests that weed out people who may have breathing problems but are not infected with SARS. While the panic mongers have an undeniable head start, so far the ability of modern science to deal with such a novel and destructive threat seems up to the task. Let's only hope that governments' reactions to SARS are equally careful.

Declan McCullagh (declan@well.com) is the Washington correspondent for News.com. His Web site is www.mccullagh.org.

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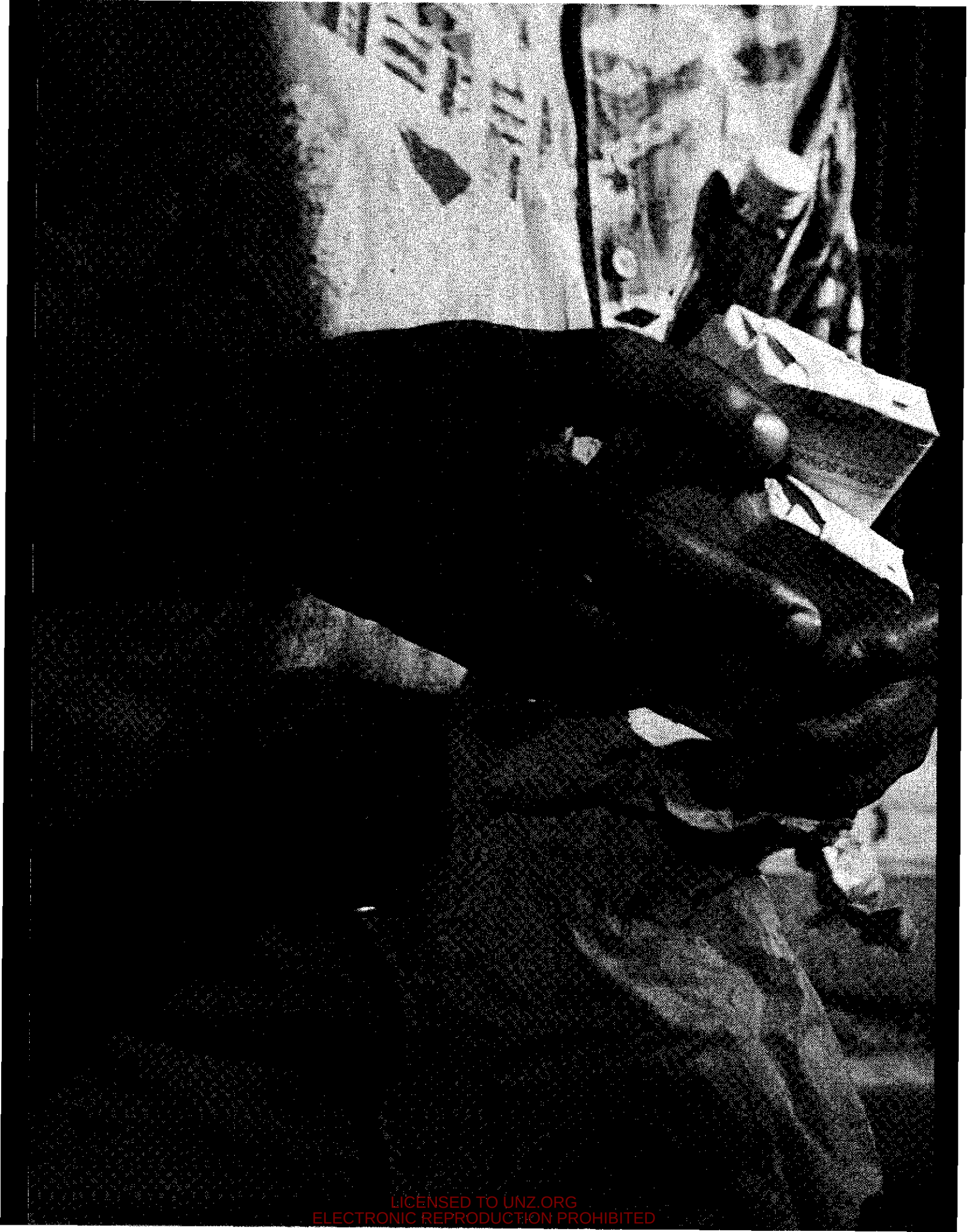

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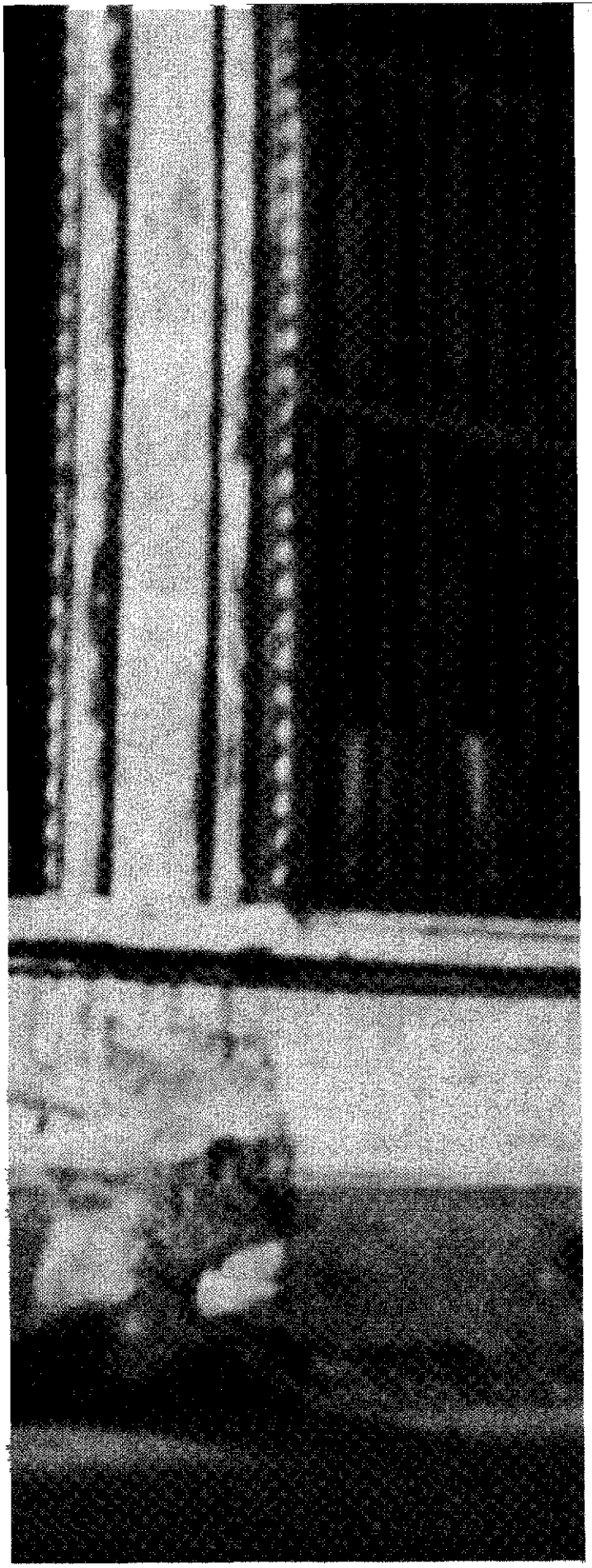

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Havana Hustle

Cuba's New Socialist Man learns to wheel and deal

Damien Cave

I MET PABLO in December at a rooftop bar offering cheap cocktails, live salsa, and an expansive view of Havana Harbor. Pablo—his name and the names of other Cubans in this story have been changed to protect them from punishment—was 28 years old, a budding capitalist with a strong code of ethics. He laid fiery scorn on the city's *jineteros*, male "jockeys" who hustle tourists for tips and commissions. He mocked their aggressive approach—"Hey, you need cigars? *Una chica?*"—and insisted they were ruining Cuba. Sure, Pablo himself found restaurants for tourists when they asked, and at our request he led two friends and me to a dark, lusty nightclub (appropriately named Las Vegas), where he earned $15 off our $56 tab. But for the most part, Pablo supported his sick mother and younger sister through more legitimate means. Instead of pushing overpriced restaurants, tobacco, women, or drugs, he sold his own paintings, Crayola-bright Cubascapes that tourists bought for $20 or more.

Pablo reveled in the fact that he taught himself to paint, then learned English to increase sales. "I'm different," he told me. "I always earn money without hurting anyone."

Five months later, on a sweaty spring night, Pablo repeats this claim. And with me, he's always lived up to it, going so far as to return commissions culled from our shared meals and drinks. But a lot has changed since December, and it's not at all clear that Pablo and others like him will manage to

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hold onto their scruples. Cuba today is wracked with silent fear. In the wake of a massive spring crackdown on independent thought and action—Castro has tossed nearly 80 dissidents in jail, executed three boat hijackers, shuttered home-based businesses, and closed at least one popular discotheque—few feel secure. Jineteros now whisper or quickly demand dollars. Educated Cubans hide American books at the first sign of a visitor. Black marketeers sweat the sales they need to survive. It's as if Havana were the setting of a metropolitan hide and seek, with all the citizens holding their breath to keep from being found by Fidel.

Amid such suffocation, nearly everyone must consider an immediate shift in course—especially in Cuba, where an estimated half of all retail transactions take place in the black market. But to understand how today's oppressive atmosphere fits into not just Cuba's present but its past and future, there is perhaps no better place to look than the world of *jineterismo*. Because they work in the streets under the nose of the regime, jineteros have become Cuba's ultimate evolvers, hurricane-quick adapters who bob and weave whenever political muscle appears. Mostly in their teens and 20s, they offer a vital glimpse into both what people are being forced to do today and what they'll likely pursue tomorrow.

Neither insight is encouraging. In more ways than one, Castro is turning would-be capitalists into criminals. At this point, not even Pablo is the man he used to be.

Black and Gray Markets

Pablo's relationship to jineterismo, Fidel, and capitalism includes fits and starts, triumphs, trials, and plenty of errors. But in each case, Castro made the first move.

The pattern started in 1993. At the time, Pablo was 18 and Cuba was dying. Without the Soviet Union's oil and its $4 billion in annual aid, the island could barely function. Blackouts darkened the Cuban night. Malnutrition returned to the countryside, and inflation skyrocketed. Cuba was doomed, Andres Oppenheimer declared in his 1993 book, *Castro's Final Hour*; it would soon disintegrate into chaos.

But stories of Castro's demise have always been greatly exaggerated. Suddenly, he let loose the reins. Self-employment in dozens of formerly black market occupations became legal. Such activity has been a part of Cuba's economy since Spanish rule, when officials earned low salaries and were expected to pad their incomes through corruption. Because the post-Soviet black market had swelled to politically threatening proportions, Castro decided to co-opt it.

He also gave his blessing to dollars. Once outlawed as the currency of imperialism, greenbacks suddenly became not just accepted but necessary. Without American cash, it was nearly impossible to obtain shampoo, appliances, decent shoes, and other items the state could no longer provide.

The economists who convinced the government to accept minimal reforms said they wanted to give markets an active role, "neither exclusive nor dominant." Castro, meanwhile, wanted only a tightly limited infusion of free enterprise. "We will have to improve and perfect socialism, make it efficient but not destroy it," he said in 1993. "The illusion that capitalism is going to solve our problems is an absurd and crazy chimera for which the masses will pay dearly."

This ambivalence created gnarled, often schizophrenic markets. While a significant part of the regime's survival strategy depended on opening the country to tourism, for example, restaurants and bed and breakfasts were not allowed to advertise or to hire anyone but immediate family. The former prohibition essentially created jineterismo: Without advertising, one-on-one marketing to the masses became the best way to drum up business.

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Damien Cave

Pablo—a trim 5 feet, 9 inches, looking more like a shortstop than a businessman—still recalls the day he raised the issue with his family. He had just finished school, and rather than work for the state he wanted to try earning dollars on the streets. His family needed cash. He was the only man in the house. His mother was often bedridden with severe arthritis, his younger sister and her daughter were still in school, and Pablo, as a black man without political connections or an appropriate degree, would never be able to get a tourism job that offered legal access to dollars. Becoming a jinetero, he argued, was the only option.

At first his mother and sister rejected the idea. "They didn't want me to do it," Pablo tells me in his simple concrete house on the outskirts of Havana, where he still lives with his mother, sister, and niece. "They thought it was dangerous. They thought I'd be arrested."

Eventually, though, his family relented. The cutbacks in food and services provided by the state were simply too much to bear. Besides, they figured, when the government has the *cojones* to ban Cubans from entering hotels and tourist restaurants, why treat the law as sacred?

Business was relatively good at first. The number of tourists visiting the island increased by 15 to 20 percent a year throughout the mid-'90s, and tourist-focused businesses took off. By the end of 1995, according to government statistics, Cuba had more than 208,000 licensed independent workers (called *cuenta propistas*), 64,000 of them in Havana. As a result, young men like Pablo, who always made sure to tuck in his shirts and look clean, had little trouble satisfying the foreign, sunscreened hordes while earning at least twice the salary of a Cuban doctor (400 pesos, or about $16, a month). More impressively, they managed to do it without the widespread violence and crime usually associated with informal hustling in countries such as Jamaica. Pablo, it seems, wasn't the only one trying to "make money without hurting anyone."

Until 1996. That's when Castro rewrote the market's rules. Fearing the genie he'd unleashed, and with the economy improving, Fidel "rectified" the situation. A series of new laws demanded everything from the re-registration of the self-employed to income taxes that often topped actual income. Nearly every entrepreneur suffered. Within two years, the number of registered independent workers dropped by nearly half. According to Ted Henken, a Cuba specialist at the City University of New York (CUNY), by 2000 only 200 home-based restaurants (*paladares*) were registered and in business on the entire island, a decrease of more than 85 percent.

Pablo felt the impact more immediately than most. By the summer of 1997, he'd grown desperate. He couldn't find a state job that paid enough, and the open friendliness required for successful hustling attracted police attention. So Pablo asked his sister Susanna to work with tourists in Varadero, a beach community two hours outside Havana. Pablo knew this meant she would be tempted to sleep with men for money. He knew that *jineteras* were expected to have sex with their customers. He says that the idea made him nauseous, and that when Susanna agreed to go he hoped she'd be the exception. In any case, with a sick mother to care for and no other source of income, he and his family had no choice. "I was having such a hard time," Pablo says. "I figured maybe she'd be luckier because she's a woman."

Pablo's dubious suggestion was hardly unique. During the so-called Special Period of the '90s, a swift trade in sex tourism began to develop in Cuba, and many women chose to seek out foreign boyfriends instead of Cuban jobs. Unfortunately, Pablo's sister started at a dangerous time. In addition to the new laws, Pope John Paul II was scheduled to visit Cuba within a few months. Castro accordingly embarked on a moral crusade against prostitution. Two months and one boyfriend after she started, Susanna was arrested. The Italian man she'd befriended couldn't do her any good. The

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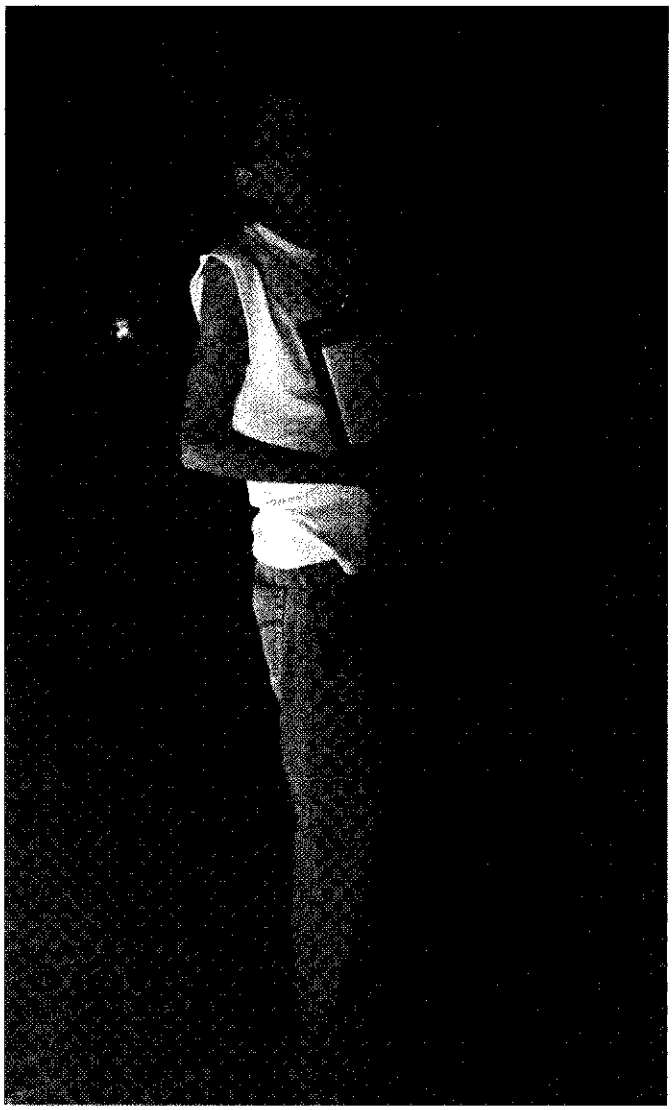
handful of dollars she'd earned were useless. Without a trial or a lawyer, she received the standard harsh sentence of the time: two years in prison.

When the Pope arrived in January, the streets along his route were as clean as the Vatican's.

Hustlers and Soft Sells

Susanna doesn't seem angry at Pablo today. She refuses to talk about what prison was like, but when we met she and Pablo were joking around about dinner, clothes—typical sibling banter. If there was a long-term scar from the experience, it didn't show.

For Pablo, though, Susanna's arrest became yet another turning point. If the regime's 1996 crackdown pushed Pablo's sister to the streets, her arrest threw him in the opposite direction. At first, Pablo simply wallowed in sadness and anger. "I cried for like a year," he says. "I went crazy knowing she was in prison because of me." But after several months, the pressure to provide mixed with the regret over his sister pushed him to adjust once more. This time, he focused on a long-term investment: education. By learning English and painting, he hoped to broaden his market.



He aimed to avoid the seedier side of serving tourists, and according to his mother, "He worked very hard." When Pablo showed me a series of notebooks full of English vocabulary lists and self-created grammar drills, I had to agree. Not that his English and painting were done for self-improvement—whenever I ask Pablo about his artistic influences, he laughs. "I paint whatever the tourists want," he says. Art, he argues, is only an economic tool, the key component of a survival strategy.

It was through painting, though, that Pablo began to realize the benefits of the soft sell. He began to see that if he could get tourists to like him, to feel comfortable, they were more likely to buy a painting from him. If he sold them something they liked, they might even refer their friends to him.

Talking to tourists, then, became an attempt to create an ongoing relationship. His methods were simple but were unusual in Havana. "I always carry $2 or $3 in my pocket so I can go into a bar and meet tourists," he told me in December. "If they see me and I'm sitting down and buying my own beer, they trust me."

"I'm different from the others," he added. "I don't sell tobacco on the streets. I don't bother tourists. I get them to trust me. They ask me for things and I help them."

What the tourists don't know is that Pablo's help earns him commissions. A *mojito* ordered at most bars will net Pablo a dollar. Dinner for four at a *paladar* will bring him a few greenbacks and some oil or rice or beans. Taxis, rented rooms in people's homes, cover charges at discos, women, men—everything in Cuba comes with a commission that usually amounts to between 10 percent and 25 percent.

Cubans still aren't sure what to make of such work. Some shrug it off as a necessary tactic. Others, especially the licensed business owners whom the jineteros serve, complain about their presence, if only because they resent the commissions. The regime would rather do without jineteros as well: In the May 4 English edition of *Granma*, Castro's state mouthpiece, one of the three executed hijackers was described as a criminal who "was given an official warning about harassing tourists 28 times."

Still, it's clear that hustlers don't benefit only themselves. Most of the 50 or so jineteros I've spoken to since November say they support at least two other people. They may just be telling me what they think I want to hear, but I've visited

Damien Cave

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enough homes and interviewed enough extended family to confirm the substance of their claims. Pablo's neighborhood, for example, shows clear signs of a multiplier effect. All the houses, single-story three-room ranches, have been renovated in the past two years—thanks in part to tourism-related money. Neighbors with larger unofficial incomes, like the beer delivery-driver who sells poached cases on the side, have used better materials and brighter, fresher paint. But everyone in Pablo's barrio seems to have benefited from those who have contact with foreigners.

It's an ongoing process. When we walked out of his neighborhood, Pablo was stopped several times for help. One man, with a weathered face and torn jeans, requested a pair of shoes; another asked when Pablo was going to teach him English.

I've seen this communal approach to commerce throughout Cuba, especially among independent workers such as the repairman who silenced my noisy air conditioner with the help of two apprentices. It could be a pleasant aftertaste of Cuban socialism. Or perhaps it's an example of the solidarity that develops among citizens of a decaying authoritarian state. Regardless, I couldn't help but feel encouraged by the team effort. In these connections and webs of support, I saw future community-focused businesses: an English language school here, a construction company there.

But will it ever happen?

Sex, Drugs, and Rule of Law

The entrepreneurial and hustling scene in Cuba changes with the speed of a thunderstorm. Researchers like CUNY's Henken have shown that Cubans rarely cease engaging in commerce when the government acts, choosing instead to route around the problem with innovative adjustments. Some of these are relatively harmless. The commission system, for example, is a way to ensure payment for an illegal but often necessary task. Other shifts, however, do not bode well.

When I visited in December 2002, for example, sex and drugs were being sold more openly than during my previous visit, a year earlier. Prostitution in Cuba is nothing new, of course, but in the past such transactions were usually initiated without pimps. Not anymore. I discovered this first on the tourist Fifth Avenue of Obispo Street, when a short, thirtyish man offered me his teenage sister for $15 a night. Then I saw the hustlers on the Prado hawking the women who sat beside them. Finally there was the jinetero in the seemingly new Polo shirt—he looked about 18 years old—who brought me to a smoke-filled room on the second floor of a decayed colonial building in Old Havana. There, for only $10, I could gain access to loud music and 100 women who ogled me like I was pure gold when I peeked inside.

Drugs remain a far less developed market. Hustlers who rub their nose to signify sales of cocaine remain rare, and marijuana offers are not much more common. In fact, when I refused to buy a joint from one Tommy Hilfiger–clad hustler in central Havana, he badgered me for prices. "How much should I charge?" he asked. "What's a joint cost in the U.S.?"

Still, the emergence of even clueless drug dealers is hardly cause for celebration. When illegal, drugs tend to breed violence. As Dennis Hays, executive vice president at the Cuban American National Foundation, points out, "It's a very short step into crime—muggings, flimflam, rolling people, pickpocketing."

The present crackdown, Hays and others argue, will only accelerate the process. Already, says Henken, "A lot of people are going underground and are being forced into more pernicious activity because there's not much space to survive."

With characteristic Cuban pride, the jineteros disagree. They tend to see themselves as the country's future business

The entrepreneurial and hustling scene in Cuba changes with the speed of a thunderstorm. Cubans rarely cease engaging in commerce when the government acts, choosing instead to route around the problem with innovative adjustments.

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leaders. They know they will outlive Fidel, and many—like Manuel, a 20-year-old law student who's aiming for a career in international commerce—are preparing for the imminent transition to capitalism. And don't worry about violence, a scraggly-bearded hustler on the Malecon told me in May. After all, he said, "Cubans are not terrorists." The only people who died in the spring spate of hijackings "were killed by *el gobierno*."

But even if crime remains under control, the government's restrictive approach to capitalism will likely inflict more subtle but still painful wounds. Scholars, though quick to point out that no scientific study has captured jineterismo's true impact, tend to be pessimistic about Cuba's informal markets. They argue that the most troubling portents are not physical but cultural.

"It's important to recognize that the problems communist countries have is a lack of rule of law," says economist Joseph Stiglitz, a former vice president at the World Bank and the author of *Globalization and Its Discontents*. "This is the inheritance of communism."

Cuba is no exception, and according to some, jineteros will only make future chaos more difficult to avoid. "The jineteros could not function without the theft that takes place from the enterprises that are owned directly or indirectly by the state," says Nelson Valdes, a Cuba-focused sociologist at Duke. "Thus, the jineteros are hardly a positive force for economic enterprise or labor discipline."

The short-term nature of tourism—combined with laws prohibiting capital investment and rhetoric that treats tourism as a temporary bandage that will soon be discarded—teaches jineteros to ignore the value of long-term economic relationships. "Every tourist that walks down the street is someone who you're hoping to use for an evening at most," Hays says. "It's a dog-eat-dog capitalism. It's not Junior Achievement in action."

CUNY's Henken, who has conducted more field research on jineterismo than just about anyone, takes a more balanced view. People like Pablo play a positive role, he says, by providing for their families and creating an alternative to the state-run system. But the benefits may be only temporary. Now more than ever, Henken says, Castro is turning "a reservoir of entrepreneurial talent" into "a swamp of corruption."

New Whims

Pablo's experience confirms Henken's claim. When we meet in May for a drink on Obispo Street, changes surround us. A nightclub around the corner, El Bohemio, has been closed. Police stand outside in larger numbers. Even the bar's usual hipster jazz band is gone. In their place stand five older Cubans who, according to the bartender, "played in the cemetery before coming here." It turns out we were lucky to have music at all: I later learn that most of the young, talented bands can no longer play in the bars, for reasons unknown.

I ask Pablo about a new hustling law I've heard about from other jineteros. Is it true that people caught talking to tourists five times have to spend a year in jail or pay up to 600 pesos, more than a month's salary? "*Si*," he says. "But it's not a new law. It's a new whim."

"What's it mean for you?" I ask. "Are you still painting?"

"Not like before," Pablo says. He goes on to explain how his brother kicked him out of the studio they were sharing because he couldn't pay his share of the necessary taxes. "I paint at home a little bit now, and it's better because it's just for me," he says.

We get up and start walking toward an outdoor concert that's taking place near the Hotel Nacional, where Al Capone used to stay. I'm nervous that we're going to get stopped by the police, but Pablo says they'll recognize that we're friends. Near a store selling Ray-Ban sunglasses, he

"Every tourist that walks down the street is someone who you're hoping to use for an evening at most," says an observer. "It's a dog-eat-dog capitalism. It's not Junior Achievement in action."

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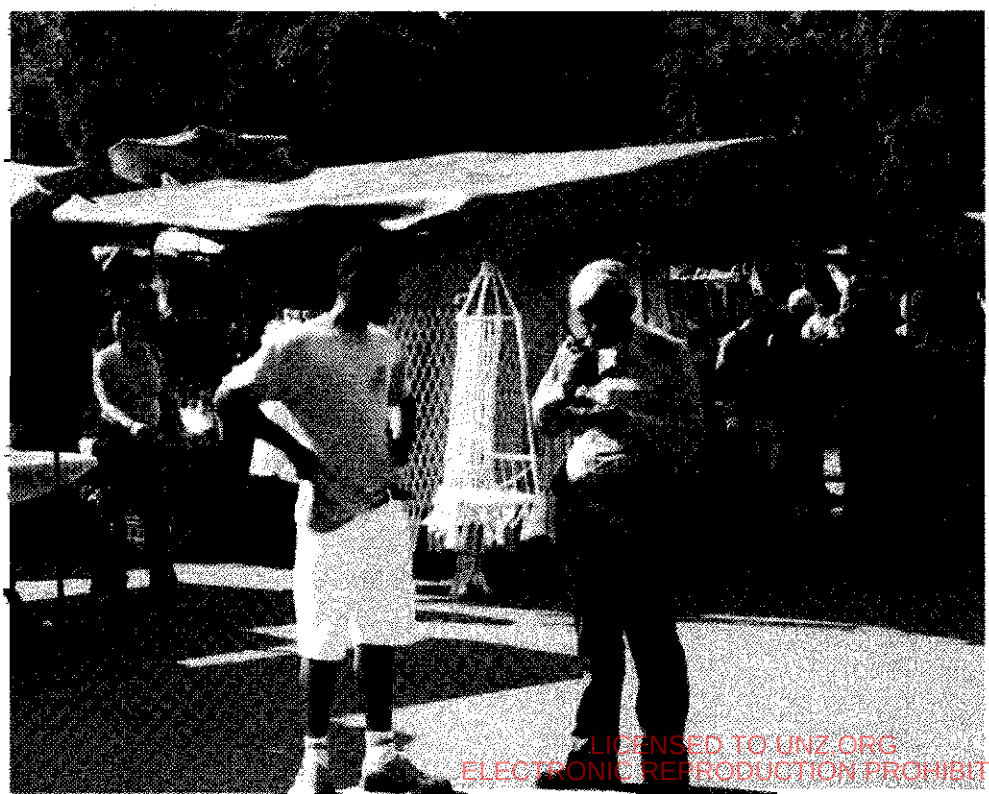
runs into another jinetero, a light-skinned man who, like Pablo, has a shaved head. They chat for a while about a pair of Americans they met the day before, and again we're off. Pablo tells me his friend was actually a partner.

In response to the new jinetero rule, which first appeared in January, he and five other men banded together to create a more efficient form of hustling. They held a series of meetings where each person laid out his technique, along with key details such as how to tell when tourists have just arrived or what clothes correspond to which country. These would allow them to form quicker bonds with tourists and thus (they hoped) avoid the police and claims of harassment.

They also agreed to share resources. "I have an advantage because I speak English," Pablo explains. "Someone else, they have a way to get cigars. It's, ah, how do you say it, an organized crime."

As I digest all of this, wondering if it really is an organized crime, we continue our walk down the tree-lined Prado. It's Saturday, and artists are out with their kiosks, selling semi-Cubist water-colored portraits and oils of buxom Cuban women. I ask Pablo how he's making money these days, and his response surprises me: "Tobacco, drugs—whatever people want." When I ask him how he feels about this, given his previous sanctimony, he tells me he was wrong to be so critical. "I didn't realize it would ever be this hard," he says. "You have to do it to survive. Some days I sell 12 boxes of cigars, and things are great. Other times, I don't sell anything for weeks and I'm lucky to sell some marijuana."

Damien Cave



Pablo stresses that he's also trying to learn German so he can talk to yet another group of potential customers. He still insists that he tries very hard to "make money without hurting anyone." But it's not easy.

I agree, but isn't there another way to earn dollars? What about teaching English? And then, tired of my badgering questions, he suddenly stops walking. He pulls out his wallet.

"OK, you want the truth?" he says. "My real business is women."

Now I'm really shocked. What about all the regrets from the experience with his sister Susanna? Who are these women you're selling?

"No," he says, laughing, tugging at a picture under the billfold. "Women! Look. I have a German girlfriend."

He shows me a folded picture. A woman with wavy brown hair, about 35, stands in a flowered bikini on a beach. Her arms are held over her head, as if to say, "Ta da! This is your prize." And indeed it is. Pablo informs me that she'll be arriving in August to marry him and take him back to Frankfurt. After dancing together one night, after spending a pair of two-month sojourns in Cuba together, they're planning to tie the eternal knot.

I look down at the beige, brand new Fubu boots on his feet—a gift?—and worry about my friend's decision. I want him to stay because, despite his "organized crime," I've become convinced that he could have a positive effect on Cuba's future. I don't have the guts to say this, or to ask how his sister and mother will survive without him, so I simply tell him that it's going to be hard: that Frankfurt is cold and no one speaks Spanish and the music sucks and Germans are legalistic and don't expect it to be perfect.

Through all this, he just smiles. He says he'll come visit me. "It's OK," he says over the din of the salsa music that I know he'll miss. "She really loves me. She's taking care of everything."

Damien Cave (dcave@salon.com) is a contributing writer for Salon.com and a Phillips Foundation Fellow.

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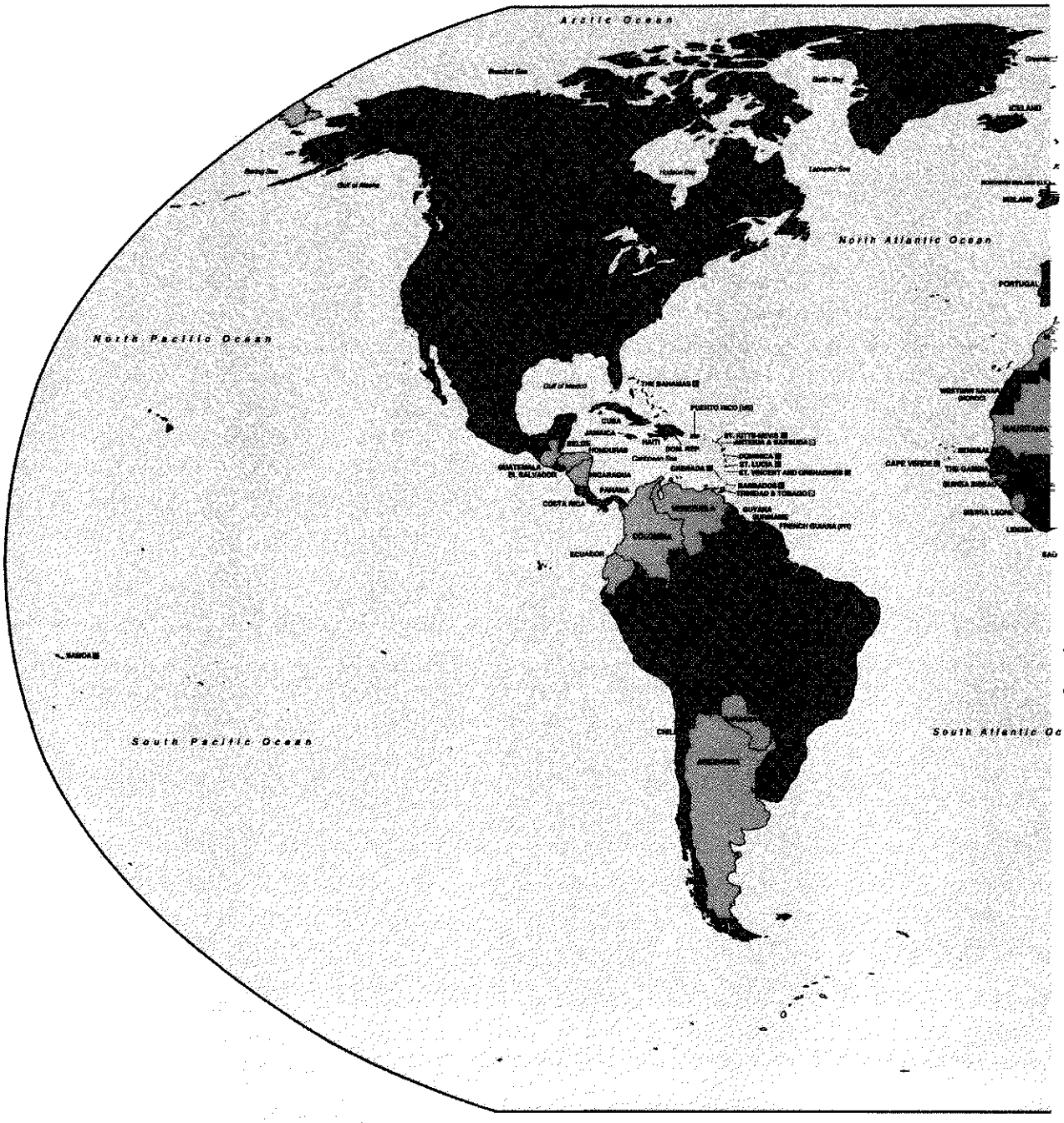

Forcing Freedom

Can liberalism be spread at gunpoint?

Ronald Bailey, Christopher Hitchens, Christopher Preble, and Ivan Eland

EARLIER THIS YEAR, Science Correspondent Ronald Bailey published a short, provocative column at **reason online** that sketched the outlines of what he considered a properly libertarian foreign policy. Based on the large and heated response—pro and con—to Bailey's ideas, **reason** asked him to expand on his original piece. We also asked three prominent writers on foreign policy to respond. What follows is that exchange, with a final reply by Bailey.

Courtesy FreedomHouse.org

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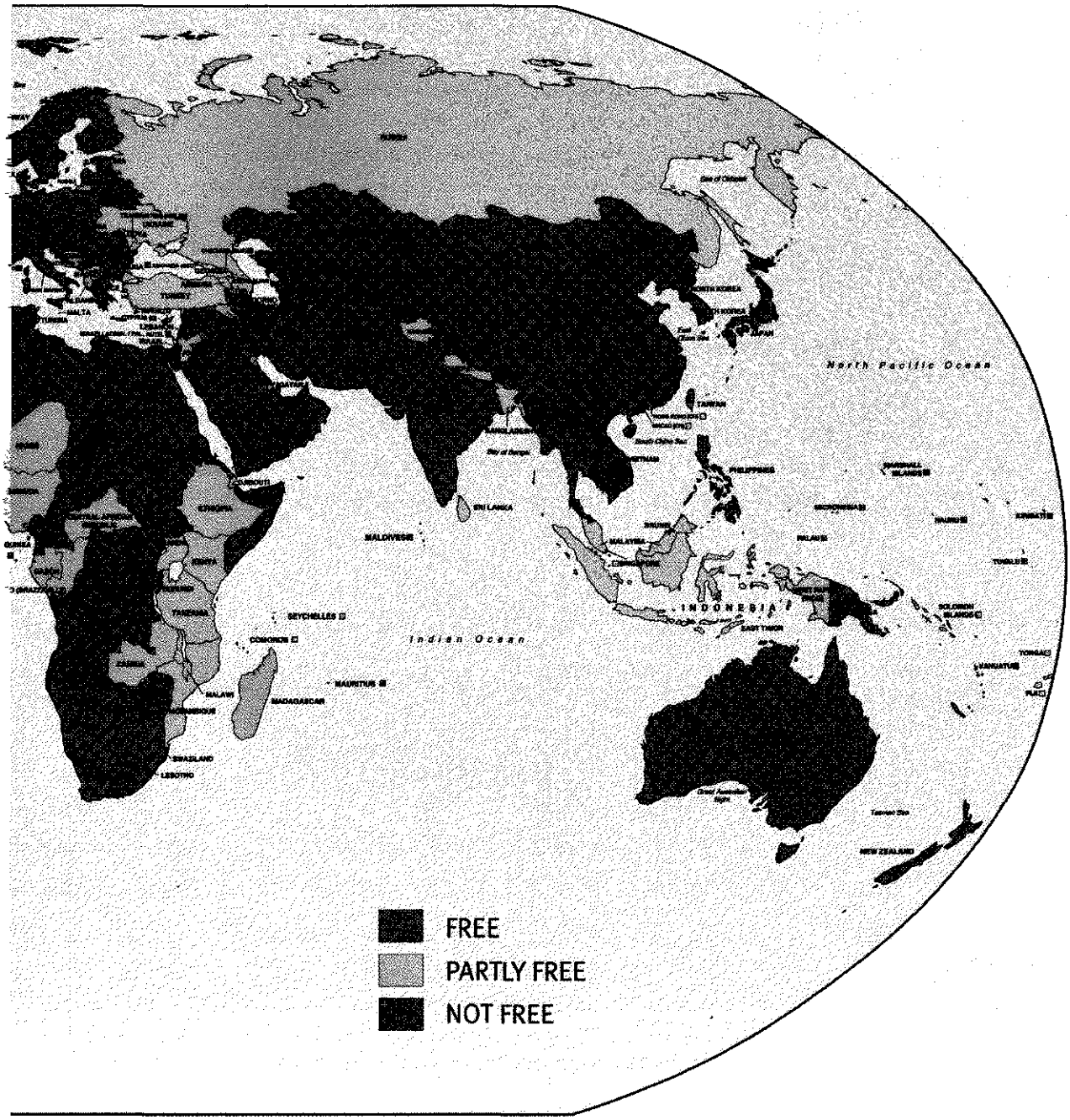

Should Libertarianism Stop at the Water's Edge?

Ronald Bailey

LIBERTARIAN PHILOSOPHY AMPLY justifies the limited role that government should play in the lives of the citizens of a free society. But what is the proper role for the government of a free society in managing relations between and among nation-states, some of which are definitely not free societies? In opening such a discussion, it's important to keep several points in mind.

First, the spread of liberal, free market democracy in the 20th century has been accomplished largely by force of arms—largely, in fact, by force of American arms. Would the same fat, happy, complacent Europe that opposed U.S. intervention in Iraq now exist had not the United States helped to liberate that continent in World War II?

Germany and Japan are free societies today because free institutions were imposed on them by the victorious

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Allies. Additionally, would the Iron Curtain have lifted from Eastern Europe and the former Soviet Republics without a 50-year policy of containment and, later, a strategy of confrontation known as the Reagan Doctrine? Reagan's active support of insurgent movements in Central America, Africa, and Central Asia was aimed at overthrowing Soviet client states and sapping Soviet resources. The policy worked, even as it created regrettable side effects, such as rogue rebels in Angola and a cadre of rootless mujahedin in Afghanistan. But it worked—the Soviet empire is no more.

Second, a world that is half free is dangerous to liberty at home and abroad. In a half-free world, free societies must protect themselves from the ambitions of tyrants motivated by ideology (Hitler and Stalin) or greed (Saddam Hussein). In the face of tyrants and terrorists of the Al Qaeda variety, politicians in free societies persuade anxious voters that we need tighter borders, increased spying on visitors and citizens, and detentions based on the slimmest of national security pretexts.

Bailey: The ultimate aim of such a policy would be to guarantee liberties at home by removing the justifications for an intrusive national security apparatus.

The result is a growing national security apparatus, including a bigger military, a new Department of Homeland Security, and expanded domestic and international spy agencies. All of these diminish domestic liberty and soak up more and more of our citizens' wealth. These expanded state powers have even tempted some conservatives to agitate for the establishment of an American empire. In the past our government justified supporting unsavory regimes such as Saudi Arabia and Zaire as necessary allies in our nation's struggle against even more menacing tyrants and terrorist organizations. Not surprisingly, to people yearning to be free of their tyrants, our support of their oppressors looked like hypocrisy and thus often encouraged them to adopt anti-liberal ideologies as guides for their struggles against oppression.

Third, libertarians certainly believe in self-defense. Most Americans support going after Osama bin Laden and Al Qaeda for the 9/11 atrocities. But what about pre-emption, the most controversial element of George W. Bush's foreign policy? A person doesn't have to wait until someone hits her or shoots her before she can defend herself. Similarly, free societies certainly have the right to defend themselves against imminent attack.

Of course, the definition of *imminent* is crucial, and it's worth considering it in terms of Saddam Hussein's murderous regime in Iraq. Regardless of whether weapons of mass destruction—the primary motive for the U.S. invasion—ever turn up, even supporters of the war such as myself always understood that Saddam had no intention of directly attacking the United States in the near future. But it's reasonable to assume that, had he been left to run his country in peace, Saddam or his Ba'athist successors would have, like Libya and Sudan, ended up supporting groups that eventually would have struck at the United States. That is the main point: The existence of unfree regimes necessarily threatens the peace of free societies. And what if Saddam, who initiated wars with Iran and Kuwait, had been able to obtain nuclear weapons? If he had then gone to war against his neighbors, what country would have risked nuclear holocaust to rein him in?

In order to better guard domestic liberties over the long run, a libertarian foreign policy should be aimed at building a free world sooner rather than later. The ultimate aim of such a policy would be to guarantee liberties at home by removing the justifications for an intrusive national security apparatus. What's necessary for that to happen?

First, it is clearly in the interests of the United States to foster the creation of a world populated by commercial republics. One of the keys to achieving this goal is vigorously promoting free trade abroad. The prosperity engendered by free trade soothes resentments and fosters the spread of the ideals of liberty. Second, citizens from countries living under tyrannical regimes should be encouraged to spend some time in the United States so that they can experience the operation of our free institutions directly. Third, and most crucially, the U.S. government should revive the Reagan Doctrine. That is, our government should support, train, and finance insurgent movements aimed at overthrowing tyrannical regimes. And the U.S. should provide not just military training but also training in the advantages and operations of the institutions of constitutional liberalism: the rule of law, protection of minority rights,

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freedom of religion, private property, free markets, a free press, civilian control of the military, an independent judiciary.

There is no guarantee that U.S.-backed insurgents will establish free societies when they come to power. But if it is understood that, should they fail to do so, the United States would turn around and back another group of liberal insurgents, that would encourage U.S.-supported groups not to stray from the liberal path.

Think for a moment what it would mean if the world were not barely half free. What if every nation in the world were a prosperous commercial republic? What would international relations look like? They would look a lot like what is happening within Europe today—growing peaceful integration of economies, increasingly open borders, and shrinking military forces. By aggressively expanding the scope of free institutions worldwide, we ultimately guarantee our own liberties at home.

Ronald Bailey (rbailey@reason.com), **reason***'s science correspondent, is a former producer for the PBS foreign affairs series American Interests.*

War Can Be an Engine of Dynamism and Innovation

Christopher Hitchens

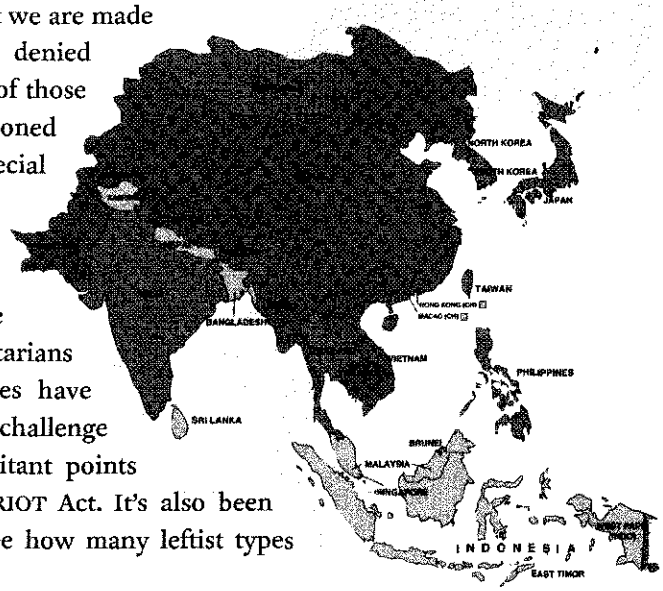
THE QUESTION AS put by Ronald Bailey is both more and less severe, in its implications for libertarians, than it first appears. To what extent does libertarianism, or any other philosophy, take the existence of a constitutional and continental United States for granted? Is libertarianism, to put it more shortly, protected by state power?

The bluntest instance of this problem in practice might be that of Abraham Lincoln, who was not only prepared to kill any number of actual or potential United States citizens, and to level and bombard their cities, but also ready to suspend habeas corpus and other protections, even for those who agreed with him. Many have compared Lincoln's "nation building" to the erection of the over-mighty state, and Gore Vidal openly suggests in his wonderful novel *Lincoln* that Honest Abe belongs in the same category as Bismarck. The fact must also be faced that the Emancipation Proclamation—prelude to the full abolition of chattel slavery and the holding of people as property—was conceived as a limited war measure only.

War is the health of the state, as was pointed out by the leftist Randolph Bourne in the early years of what was then called the Great War. But war has also, like revolution, been an engine of dynamism and innovation (let's agree not to call this "progress" too glibly). It's also been an occasion, at least sometimes, for the extension of rights and of the role of the autonomous citizen.

It would be nice to think that we could choose our allies or proxies on the basis of their similarity to our "own" ideals. But we would first have to be sure that these were, in fact, our ideals. And we would in any case have to make a prudent guess as to how long it might take for us to be vindicated in that choice. The Northern Alliance in Afghanistan, for example, was as far as I can see a much better ally than the Taliban. But how far can I, or any of us, be expected to see?

*I have never heard it argued that Lincoln's extra*ordinary measures on the legal and authoritarian front, any more than his permission for Unionists to pay others to take their place in the ranks of the army, actually advanced the cause. One might well have had one without the other(s). Censorship in wartime, for example, usually turns out to be even more stupid than censorship in peacetime. The trade-off between freedom and security, so often proposed so seductively, very often leads to the loss of both. It is plain to anyone that John Ashcroft is too doltish to hold the office of attorney general in war or peace, is illiterate as regards the Constitution, and despises the idea of church-state separation for which, in part, we are supposed to be fighting. Who can propose that we are made safer by being denied even the names of those who are imprisoned under his special legislation?



It has been encouraging, to me at least, to see how many libertarians and conservatives have been willing to challenge the more exorbitant points of the USA PATRIOT Act. It's also been depressing to see how many leftist types

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have made their objection to Ashcroft into an underhanded opposition to a war against a clear and present danger. The requirement of an oath to the Constitution is that it commits you to uphold it against *all* enemies, foreign and domestic. Given the fact that a very convincing attempt has been made to form a secret army within our borders, and to connect it with a lethal theocratic movement overseas, I'm very unimpressed by anyone who wants to counterpose these two elements of the commitment.

I somehow doubt that a superpower, however defined (even as a democratic or liberal superpower) can ever practice a "libertarian" foreign policy. Neither the populist nor the elite version of such a system seems to lend itself to limited government. However, it can perhaps be made, with a protracted struggle, to uphold the anti-totalitarian and above all secular values for which it claims to be contending. These are not easy times to be a libertarian, whether civil or social. But the easy time for that will never arrive. It's *supposed* to be difficult.

Hitchens: These are not easy times to be a libertarian, whether civil or social. But the easy time for that will never arrive. It's *supposed* to be difficult.

Christopher Hitchens (CHitch8003@aol.com) is a columnist for Vanity Fair. His latest book is A Long Short War: The Postponed Liberation of Iraq (Plume).

The Perils of Global Libertarian Utopianism

Christopher Preble

THE STATE POSES the greatest threat to liberty, and the greatest expansions of state power occur during times of threat—both real and imagined. To protect us from these threats, and ultimately from the state, Ronald Bailey advocates an aggressive foreign policy "aimed at building a free world sooner rather than later." Bailey argues that this policy would be only temporary, and that the ultimate goal would be the creation of a new order, whereby liberty could be guaranteed at home without the need for "an intrusive national security apparatus."

This is global libertarian utopianism. By this logic, freedom-loving people will use government action to mold a perfect, free world. But if libertarians are opposed to government action to make a perfect domestic world, why discard those principles beyond the water's edge?

The practical and moral difficulties of welfare-statism on the domestic front pale in comparison to those of global libertarian utopianism. For one, Bailey vastly underestimates the capacity of the state to hold onto power once that "new" world is created, once the unfree are made free. He also underestimates what it would actually take to force democracy down the throats of the approximately 3 billion people who currently live under some other system of government.

An overwhelmingly powerful national security state would certainly be needed. Bailey implies it would be only temporary, but how long is that? A decade? A century? How will we know when we have won, when we can return to our happy cocoon, safe from external threats, and therefore content to demobilize our armies, scrap our ships, and leave our airplanes to bake in the desert? Talk of temporary measures enacted in the name of defense should consider how other "temporary" measures—from federal tax withholding to mohair subsidies to NATO—seem stubbornly permanent, even after the crises in question (World War I, World War II, and the Cold War, respectively) have long since abated.

The state will always find new justifications for its existence. The end of the Cold War should have opened the door to a reduction in the threats posed to Americans and American interests. But other threats rose to the surface. Liberal governments might have taken action to mitigate the threat from global terrorism, but for a variety of reasons most looked the other way. September 11 refocused our attention.

It should also have refocused our attention on the proper means for dealing with threats. A reflexive return to the Cold War model, focused on state actors, is particularly unwise because Al Qaeda is not at all like the Soviet Union. Since the 9/11 attacks, more harm has been done to this loose-knit network of terrorists and fanatics through timely intelligence gathering, cooperative law enforcement, criminal prosecution, and international financial pressure than by laser-guided bombs and cruise missiles.

Yet the Bush administration seems determined to implement an over-ambitious strategy that often deals only tangentially with Al Qaeda and that draws most heavily on military resources

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to accomplish the mission of eliminating *all* terrorism. In this environment—filled with dozens, if not hundreds, of threats, both real and imagined—there will be ample opportunities for the state to expand its power over the individual. The most obvious manifestation is the American military machine, which is now projected to consume nearly $400 billion in fiscal year 2003 and over $500 billion by fiscal year 2009. Very little of this spending buys anything that will protect us from terrorism.

In the interest of protecting individual liberties, liberal democracies are constrained in their use of power. The most important of these constraints is the limitation on the use of force abroad, which is tied to the notion that states may act only when their vital security interests are threatened. To lift these constraints, and grant liberal governments the authority to engage in military action when vital interests are not at risk, ultimately would erode the very notion of a democratic peace that is at the core of the global libertarian utopian vision.

This is not to say that freedom-loving people must sit idly by while half the world's population struggles under autocracy. Libertarians know what works best to promote positive change in the domestic realm: political and economic freedom. Men and women advance the cause of liberty every day not by government edict but out of self-interest. We should be no less optimistic about the power of economic activity, trade, voluntary exchange, and person-to-person cultural contact to change even the most illiberal and autocratic countries in the world. Peaceful, voluntary exchange is far more in keeping with classical liberal principles than an empire of force, dedicated to the principles of compelling "illiberal" nations to heel. Liberal governments can best promote democracy not at the point of a bayonet but rather at the point of sale.

Liberal, free market democracy spreads naturally, from free states to unfree states, from dynamic societies to stagnant ones. And we all know why. Classical liberalism encourages intellectual inquiry; autocracy stifles it. Free markets reward entrepreneurial spirit; the state punishes it. Growing, vibrant liberal states combine the traits of political and economic freedom to defeat their autocratic neighbors not by killing their soldiers, bombing their cities, and jailing their leaders, but by luring away the most ambitious, intelligent, and gifted individuals. Faced with this exodus of talent, illiberal governments have only two choices: isolation or reform. Isolation leads to collapse—not immediately, but eventually. In the meantime, for individuals living in free countries, the threat posed by the self-isolated states is typically quite small; when and if these unfree states actually do pose an imminent danger, the free states are in a far stronger position to prevail militarily.

Aside from these rare instances, however, we should be far more fearful of the state's insatiable appetite for power, and we should avoid inviting government to pursue illiberal ends abroad under the guise of promoting freedom at home.

Christopher Preble (cpreble@cato.org) is director of foreign policy studies at the Cato Institute.

Preble: The American military machine is projected to consume nearly $400 billion in fiscal year 2003. Very little of this buys protection from terrorism.

Perpetual War for Perpetual Peace

Ivan Eland

RONALD BAILEY'S ARGUMENT essentially is, "Let's fight wars, with their concomitant requirement for bigger government, now so that we will have peace and reduced government later." This tack is similar to Woodrow Wilson's often-parodied slogan about "the war to end all wars" or historian Charles Beard's astute and sarcastic aphorism about waging "perpetual war for perpetual peace."

Even if the United States spent the trillions of dollars needed to depose—directly or indirectly—the remaining tyrants in the world (and there are a lot of them left), the voracious security bureaucracies would think up new threats to justify an interventionist foreign policy and to maintain defense spending at levels exceeding Cold War averages. Deposing the world's tyrants is only the first of many difficult steps to utopia. As the United States keeps rediscovering in the developing world—for example, in Panama, Haiti, Bosnia, Kosovo, and now Iraq—even after the despots' rule has been removed, rebuilding societies that have little experience with freedom into republics has not been very successful. The accomplishments in Japan and Germany were achieved by industrial societies with much

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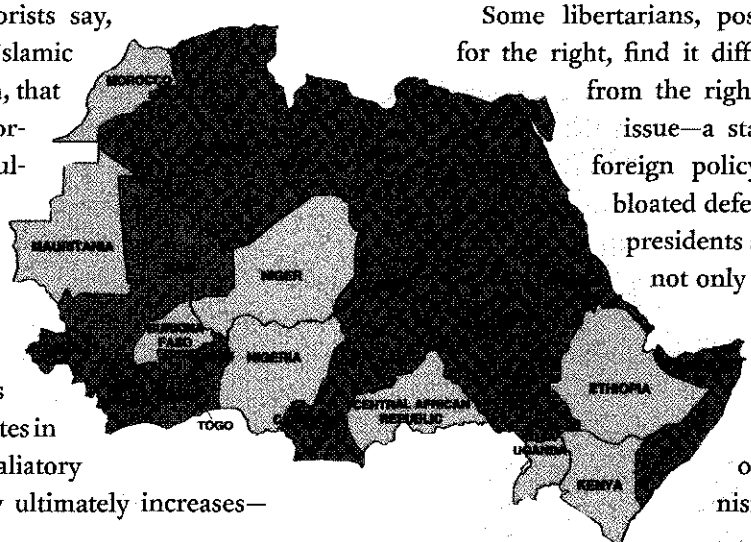
human capital, a strong sense of national identity, and (in the case of Germany) some experience with representative government.

More important, although an argument can be made that World War II had to be fought to safeguard U.S. security (U.S. intervention in World War I, by contrast, tipped the balance toward the Allies and created the conditions leading to the rise of authoritarianism and World War II), wars usually stifle rather than expand liberty. Despite the liberation of some peoples during each world war, the net outcome of each global conflict, and the civil wars spawned or aggravated by it (major conflagrations often lead to civil unrest in the belligerents, such as the Russian revolution during World War I and the Chinese civil war after World War II), was that far more people were under the yoke of oppression than ever before.

Furthermore, the hypothesis that no war would exist in a world of democracies is a theory based on flawed logic and twisted historical evidence (as the War of 1812, the American Civil War, and World War I illustrate). Thus, Gulf War II and other future brush-fire wars championed by Bailey to democratize the planet have little to do with ensuring U.S. security, and will most likely undermine it. Bailey believes that petty despots of small, relatively poor rogue states—for example, Saddam Hussein—are a threat to a superpower. But rogue states, which have known addresses, have no incentive to give—or track record of giving—weapons of mass destruction to radical groups who could get them in big trouble with the nuclear powers. Even if a rogue state (North Korea, for example) obtains a few nuclear warheads, it can be deterred from attacking the United States by the world-dominant U.S. nuclear arsenal.

Horrific blowback from terrorists reacting to interventionist U.S. foreign policy is now the biggest threat facing the country. The terrorists say, and polls of Arabic and Islamic public opinion confirm, that U.S. interventionist foreign policy—not U.S. culture or economic and political freedoms—is the cause of terrorist strikes against U.S. targets. Attacking foreign countries raises hatred of the United States in the world, increases retaliatory terrorism, and thereby ultimately increases—not reduces, as Bailey claims—U.S. government intrusion into civil liberties at home.



Because of such ill effects on government activism at home, the nation's founders advocated staying out of foreign wars. They learned from history that wars lead to bigger government and the accumulation of power by the ruler. James Madison said it best: "Of all the enemies of public liberty, war is perhaps the most to be dreaded, because it comprises and develops the germ of every other. War is the parent of armies. From these proceed debts and taxes. And armies, debts and taxes are the known instruments for bringing the many under the dominion of the few....No nation could preserve its freedom in the midst of continual warfare."

In the 20th century, war was the primary cause of U.S. government growth, and not just in areas related to national security. Massive government intrusion into civil society during World War I provided a precedent—as well as administrators and renamed government programs—for the Depression-era expansion of the state. Restraining U.S. government intervention internationally is fundamental to reducing the role of the state domestically, and government coercion abroad is as immoral as it is at home.

It is puzzling that "libertarian" interventionists are skeptical of state activism at home—where the U.S. government has at least some legitimacy—yet have great faith that Uncle Sam can successfully conduct social engineering abroad, where he has no legitimacy. Furthermore, opening markets at gunpoint isn't free trade.

Some libertarians, possessing an affinity for the right, find it difficult to move away from the right's bread-and-butter issue—a statist, interventionist foreign policy and concomitant bloated defense budgets. All U.S. presidents since World War II—not only Reagan—intervened excessively in strategically marginal areas of the world in the name of fighting communism. Such puttering

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around at the edge of the Soviet Union's sphere of influence to sap its resources undoubtedly had less of an effect on communism's collapse than its nonviable and grossly inefficient economic and social system.

Bailey goes out of his way to praise Ronald Reagan—a president who increased government spending faster than Bill Clinton and who, in his proxy war against the Soviets in the unimportant backwater of Afghanistan, created one of the few threats to the American mainland and way of life in the history of the republic. Bailey refers to this monster, now called Al Qaeda, as one of the "regrettable side effects" of Reagan's heroic Cold War struggle. But Reagan's intervention, instead of moving Afghanistan toward democracy, strengthened a proxy that became the devil incarnate. Such unintended and counterproductive blowback from unnecessary wars may be one of the best reasons not to get involved in them. Instead of using coercion unbecoming of a republic, the best way to help other nations onto the path of freedom is to lead by example.

Ivan Eland (ieland@independent.org) is director of the Center on Peace and Liberty at the Independent Institute, and author of Putting "Defense" Back into U.S. Defense Policy: Rethinking U.S. Security in the Post-Cold War World (Praeger).

Fighting for the Rule of Law

Ronald Bailey

Christopher Preble and Ivan Eland want to avoid U.S. military adventures abroad and the creation of a national security state at home. So do I. Naturally, they agree with the first two pillars of my proposed libertarian foreign policy: expand global free trade and lead by example, showing foreigners how our free institutions operate at home. We're all for "peaceful voluntary exchange." We all also acknowledge the right of the United States to self-defense. So far, so good. But then they apparently think I am advocating "perpetual war" and "an empire of force." Not at all. Nor am I in favor of an open-ended War on Terrorism.

Preble asks, "If libertarians are opposed to government action to make a perfect domestic world, why discard those principles beyond the water's edge?" Because those principles can't and don't apply to relations among nation-states. Individual liberty exists within the context of the rule of law and limits on government power, i.e., constitutional liberalism. As earnestly as one might wish it otherwise, there is no such thing as the rule of law among states. While it seems unlikely that any state (other than perhaps North Korea) would directly attack the United States, it is undeniable that many illiberal regimes are ideological breeding grounds for enemies of liberal democratic capitalism, and some even offer safe harbor for groups that do plan to physically attack the United States. Most libertarians would agree that the U.S. liberation of Afghanistan from the Taliban regime that was giving refuge to Al Qaeda terrorists was clearly justified on grounds of self-defense.

Eland: Unintended and counterproductive blowback from unnecessary wars may be one of the best reasons not to get involved in them. The best way to help other nations onto the path of freedom is to lead by example.

Preble also accuses me of wanting to "force democracy down the throats" of people living under tyrannical regimes. Again, not so. Instead, I am calling for the revival of the Reagan Doctrine. President Reagan defined it this way in his February 1985 State of the Union address: "We must not break faith with those who are risking their lives...on every continent from Afghanistan to Nicaragua...to defy Soviet aggression and secure rights which have been ours from birth. Support for freedom fighters is self-defense." The Soviet Union has been tossed into the dustbin of history, but there are still plenty of people willing to risk their lives fighting against their own tyrants to secure for themselves the blessings of liberty. It should be our policy to help them. Setting aside a discussion of the merits of the war with Iraq, it would have been a wiser policy to have earlier trained and supported Iraqi rebels to overthrow the Ba'athist regime.

Preble believes I underestimate the state's capacity to hold onto power once an alleged emergency has passed. That's certainly a valid concern. But a policy of supporting liberal insurgencies will eliminate national security as a rationale for expanding state power at home. The immediate aftermath of the Cold War is instructive here. After the fall of the Soviet Union, the fact is that the U.S. did substan-

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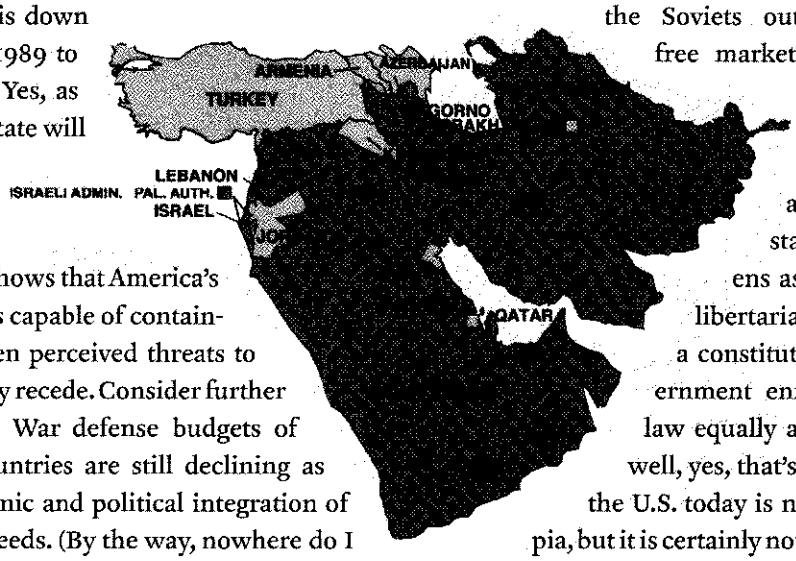
tially "demobilize our armies, scrap our ships, and leave our airplanes to bake in the desert." For example, active duty U.S. Army forces were cut by about 40 percent in the 1990s, and the U.S. Navy is down from 594 ships in 1989 to around 300 today. Yes, as Preble notes, "the state will always find new justifications for its existence," but recent experience shows that America's liberal democracy is capable of containing its military when perceived threats to our national security recede. Consider further that the post–Cold War defense budgets of most European countries are still declining as the peaceful economic and political integration of that continent proceeds. (By the way, nowhere do I advocate an increase in the U.S. defense budget.)



Ivan Eland notes that transforming societies the U.S. military has invaded recently—e.g., Panama, Haiti, Bosnia, and Kosovo—into republics has not been very successful so far. The chief problem is that few people in those places are committed to liberalism; they remain essentially tribal loyalists. The goal of a libertarian foreign policy is to train insurgents first in liberalism and then in military competencies. Tyrants throughout history have appealed to tribalism and its modern incarnation, nationalism, to justify their rule. Liberalism breaks the bonds of tribe and teaches people who disagree how to live peaceably together. There would be no need for a War on Terrorism in a world of liberal commercial republics.

"Attacking foreign countries raises hatred of the United States in the world," Eland claims. Maybe so, but attacking countries is not the goal of a libertarian foreign policy; helping people liberate themselves is. Eland also claims "libertarian interventionists" have "great faith that Uncle Sam can successfully conduct social engineering abroad." No more "social engineering" than helping tyrannized people to establish constitutionally limited governments is contemplated here. America's support of the mujahedin in Afghanistan in their fight against the Soviet invaders led to the Taliban and Al Qaeda. But would it have been better to have just left the Soviets to do as they wanted there?

Christopher Hitchens is right that none of us has perfect foresight. But a more engaged policy along the lines being discussed here—one in which the U.S. trained cadres of Afghans who then returned to their country after it was liberated from the Soviets—might have derailed the Taliban's rise to power. Our shortsighted policy was to get the Soviets out, then hope that free market democracy would develop naturally. It didn't work.

"Is libertarianism protected by state power?" Hitchens asks. If he means, "Is libertarianism protected by a constitutionally limited government enforcing the rule of law equally among its citizens?," well, yes, that's the idea. Of course, the U.S. today is not a libertarian utopia, but it is certainly not the sort of arbitrary tyranny under which hundreds of millions still groan across the globe. I will forego Christopher Hitchens' invitation to refight the constitutional legalities of the Civil War, but the liberation of the slaves was a moral imperative, period. It also is worth noting that if a nation could not continue half-slave and half-free, neither should we expect the globe to continue half-slave and half-free. It is true that the federal government never fell back to its antebellum size, but habeas corpus and press freedom were restored. I wholeheartedly agree with Hitchens that there is no tradeoff between freedom and security. The chief domestic benefit of a libertarian foreign policy would be that, with the development of a world of liberal commercial republics, Americans could not be bamboozled into supporting intrusive measures like the USA PATRIOT Act.

The bottom line is that a libertarian foreign policy ultimately recognizes that support for genuine freedom fighters is the best self-defense. ▯

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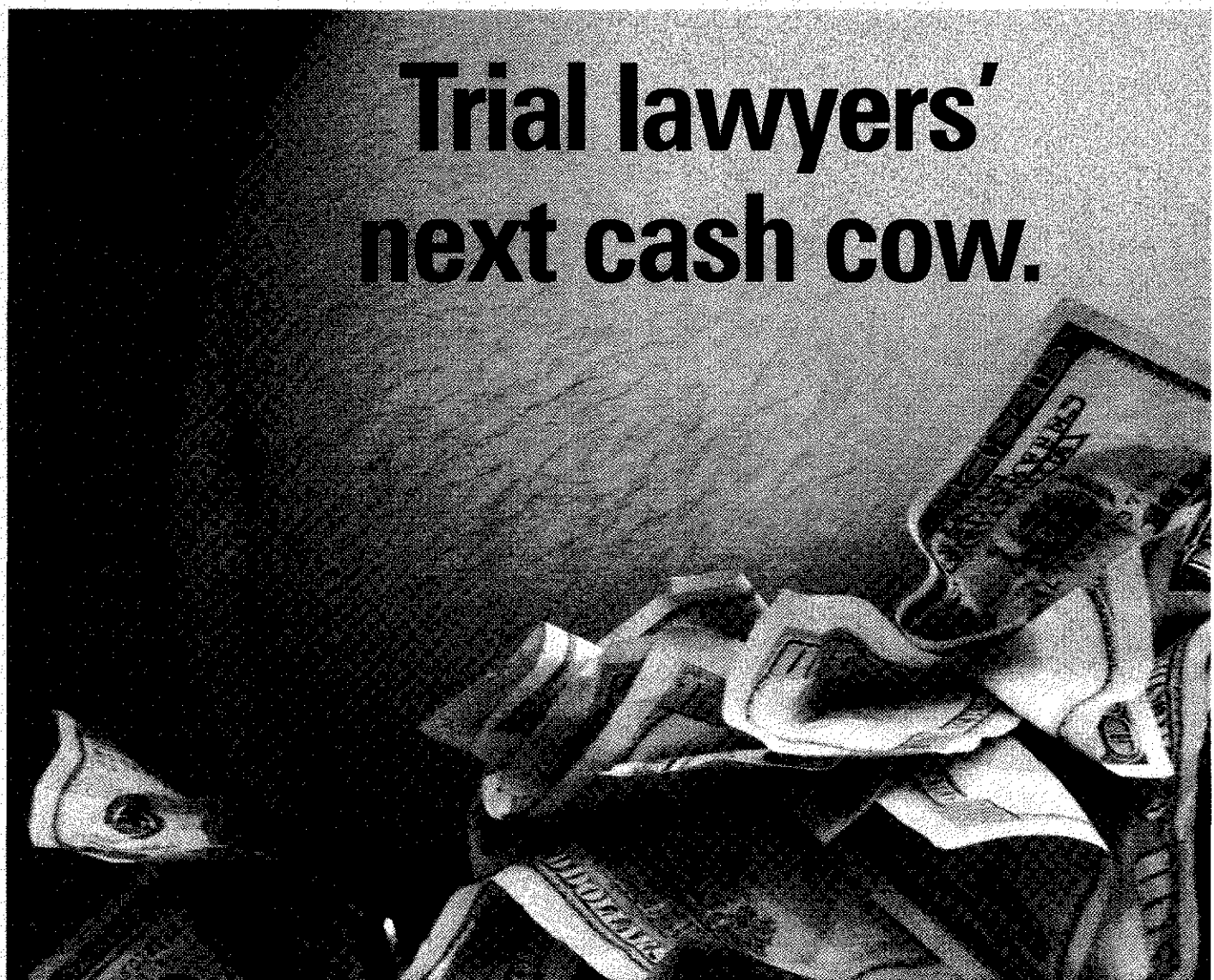

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Really Creative Destruction

Economist Tyler Cowen argues for the cultural benefits of globalization

Interviewed by Nick Gillespie

WHAT ARE WE to make of the fact that Saddam Hussein selected Frank Sinatra's version of "My Way" as the theme song for his 54th birthday?

Cultural pessimists and critics of globalization would tend to view such a curious choice with alarm or condescension, as just one more case of tawdry American, profit-based pop supplanting "authentic" indigenous music. On the left, political scientist Benjamin Barber decries the spread of "McWorld," a "bloodless economics of profit" that relentlessly exports cheesy American goods to far-flung lands. On the right, conservatives such as philosopher John Gray fret that free trade is destroying local customs while homogenizing culture and lowering standards.

In his recent and important book *Creative Destruction: How Globalization Is Changing the World's Cultures* (Princeton University Press), economist Tyler Cowen argues that something very different—and much more heartening—is going on. He takes his cue from Joseph Schumpeter, who famously described the "perennial gale of creative destruction" at the very heart of market orders. Cowen contends that "cross-cultural exchange...creates a plethora of innovative and high-quality creations in many different genres, styles, and media," and that such exchange "expands the menu of choice, at least provided that trade and markets are allowed to flourish."

The result is a powerful, richly evocative contribution to our understanding of how art and commerce, often seen as natural enemies, are in fact closely related. Cowen, described by *The Boston Globe* as "the leading proponent of a free market position within the arts and culture," writes: "A typical American yuppie drinks French wine, listens to Beethoven on a Japanese audio system, uses the Internet to buy Persian textiles from a dealer in London, watches Hollywood movies funded by foreign capital and filmed by European directors, and vacations in Bali; an upper-middle-class Japanese may do much the same. A teenager in Bangkok may see Hollywood movies starring Arnold Schwarzenegger (an Austrian), study Japanese, and listen to new pop music from Hong Kong and China, in addition to the Latino singer Ricky Martin."

Given the anxieties surrounding globalization—and in the wake of the 9/11 attacks, which many took to reflect an unbridgeable gap between Islam and the West—the deep understanding Cowen brings to cross-cultural exchange has never been more relevant.

Cowen, 41, has explored related territory in two highly acclaimed books, *In Praise of Commercial Culture* (1998) and *What Price Fame?* (2000). Cowen was raised in New Jersey, and his interest in commerce may stem from the fact that his father was the president of the Northern New Jersey Chamber of Commerce. After attending Virginia's George Mason University, he took his Ph.D. from Harvard University in 1987.

Following a teaching gig at the University of California at Irvine, he returned to George Mason, where he holds the Holbert C. Harris Chair of Economics and directs both the James M. Buchanan Center for Political Economy and the Mercatus Center. He is also the proprietor of a lively Web home page (www.gmu.edu/jbc/Tyler/) that hosts an extensive and ever-expanding ethnic dining guide for the Washington, D.C. area. More recently—and in keeping with his interest in cross-cultural trade—Cowen married the Russian-born lawyer Natasha Chernyak.

Editor-in-Chief Nick Gillespie interviewed Cowen in April.

reason: Give an example that characterizes the sort of cultural exchange and hybridization that you discuss in *Creative Destruction.*

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Tyler Cowen: The first point to make is that *all* examples characterize it. The only question is, how much of it do we already see? Look at a book and ask yourself, where does paper come from, where does printing come from, where do the ideas in the book come from? What's the religious background of the author? You're already talking about the Middle East, China, Europe, the United States.

Just about anything you can find reflects a synthetic culture based on trade. It's really not even a question of degree. Virtually *everything* is a product of multiple cultures coming from very different places, and we should be acutely aware of that when we approach debates on globalization and nationalism and cultural protectionism.

Reggae music is a specific example. It drew heavily from American rhythm and blues. It really took off when Jamaicans received American radio broadcasts of American music. Later, it drew heavily from the Beatles and the British Invasion bands. It's a notion of music that's seen as intensely Jamaican, and in a way it is, but it's also drawing on sea chanteys and influences from all over the place. And it's drawing on a religion—Rastafarianism—that has a link to Ethiopia.

Not only is reggae incredibly synthetic, but it's had an enormous influence on global culture. A lot of American rap music came from reggae. Musicians such as Blondie, Paul McCartney, Paul Simon, and many others have been considerably influenced by reggae. A lot of techno and rave music comes from the Jamaican form called dub.

Here's a pretty small island, not too many people, not too rich, very close to this big cultural giant, the United States, and it develops a form which is synthetic in the first place and then really has a big impact on the world. It's not the case that it's been trampled by big conglomerate multinationals. Jamaica has more record labels than the United Kingdom.

reason: If this sort of hybridization is so striking and central to cultural production and exchange, why isn't it more widely acknowledged, much less celebrated?

Cowen: I think a lot of it is pride. People want to take pride in either a country, an ethnic background, or a place of origin. In order to construct an identity, a story, a sense of pride, you need tales about how *your* group, your region, your nationality—your whatever—is somehow special, different, apart, and imbued with a particular kind of meaning.

I think these stories are actually quite useful. Such beliefs motivate people; they give people comfort. I don't wish to strip them away from people. But if we take those stories too literally and start basing policy on them and forget about this other truth, then we're in deep trouble. We'll start thinking that the nation or the group is special and that you need to protect the group.

reason: Even as you celebrate the benefits of trade and mixing, you write about the "tragedy of cultural loss." What do you mean by that?

Cowen: The day of very small cultures—of groups of 10,000 or 20,000 people that have their own language and formerly had little contact with "civilization"—is coming to an end. I'm thinking of groups such as the Pygmies and certain indigenous groups in Mexico. The end won't come tomorrow, or in 10 years, but groups like that are finding it harder to maintain their isolation. Instead, we have very creative regions or polities, but they tend to be like India, Brazil, or the United States: They're large and complex and varied, but no single part of it lives much in isolation. That is not a less creative outcome. In many ways, it's more creative, and the isolated people now have access to the treasures of the world.

As the world becomes more integrated, we lose a lot of dysentery and diarrhea and malaria and women dying in childbirth who don't have to. There's a whole list of benefits that we're all familiar with, and those to me are most important. But in terms of culture, there is a loss. For instance, it's absolutely true that a lot of languages are dying. There's a gain because you bring people into a broader language network where

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they can write for others and they can read things by others. I don't have a problem with that trade-off, but I don't want to deny that something is lost. These vanishing languages are rich, and they're interesting. There's a net gain, but you can't just paint a picture of an advance along all fronts. It's not the reality.

reason: One of the problems with arguments about cultural loss is that they are often advanced for protectionist reasons. So, for instance, we have the French decrying U.S. cultural imperialism and insisting on domestic-content rules and the like. What are the effects of trying to hold back cultural creative destruction?

Cowen: The good news is that it cannot easily be held back. Maybe you can if you go to extremes, like Xhosa did in Albania. But short of that, it doesn't work. Look at the French. For all the noise they make, Paris is remarkably open to African and Middle Eastern cultures—and to Hollywood movies, for that matter. They have these quotas, but they don't enforce them. If you want to see a movie in Paris, you're in great shape, no matter what kind of movie you want to see.

In that way I'm quite optimistic. I don't feel we're in any great danger of this mixing being overturned by a few tariffs or by a few intellectuals who hate capitalism. I think the forces in favor of trading cultural ideas are so strong you simply can't hold them back short of extremes that few countries today are even thinking about.

As a whole, the world has been moving towards freer trade for quite a while. Since the 1930s or so, the picture looks pretty good. It's far from perfect, but it's pretty good.

reason: *Creative Destruction* generated a lot of reviews, including two by a couple of intellectual heavyweights: the anthropologist Clifford Geertz (in *The New Republic*) and the political scientist Benjamin Barber (in the *Los Angeles Times*). Geertz criticized you for not making personal aesthetic judgments about good and bad art. What do you think of that?

Cowen: You know, the book itself states very clearly that my purpose is *not* to say: "Here are the tastes of Tyler Cowen; you have to agree with them. Judge the world by these standards!"

The book makes an argument that people's ability to develop "good" taste—which I may or may not agree with—is far greater now than it ever has been in the past. People who pursue hobbies, who are well-informed, they know the difference between, say, good Zairian music and bad Zairian music. The key thing that markets do is economize on the need for agreement.

I think Geertz is still operating in a framework where you're supposed to put down your list, like the literary critic Harold Bloom did in *The Western Canon*, which really should have been titled *Harold Bloom's Canon*. Geertz thinks you should lay everything on the line with your aesthetic judgment. But you're never going to get people to agree with those judgments, even if they're objective in some ultimate sense. I'm more interested in a broader argument: that markets and exchange will offer people of many different tastes many different things. I think global culture does that. It economizes on the need for agreement.

reason: Isn't this one of the things about markets—whether in culture or more conventional goods—that has always bothered intellectuals? By economizing on the need for agreement, you're economizing on the need for consensus and the need for gatekeepers and tastemakers, roles intellectuals have traditionally filled. They don't occupy the same position as they might in a more centralized, hierarchical system.

Cowen: That's right. You hear people say, "Oh, in the old Soviet Union or Czechoslovakia, intellectuals and artists were so important." Often they were. People would sort of hang onto the next work from a critic or a poet. But when you have a freer, wealthier, more stable society, they're not important in the same way. You know, maybe something is lost there, but in net terms I have no doubt it's for the better.

There's another reason why intellectuals are so often hostile to markets. At least part of it is because markets do not reward quality per se, and that is resented. In a cultural context, if you look at how rewards are distributed, they're not linked directly to quality, no matter how you care to define it. You look out in the market and see that Michael Jackson, who maybe is not the best father, earned however many millions from his music. Or that Madonna, who's not the best singer, earned *so* much more than a great opera singer. We instinctively feel there's

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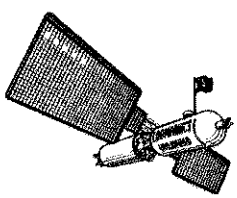

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something wrong with that.

Maybe there *is* something wrong with that at some moral level, but the more important question is whether the system as a whole delivers the cultural goods. Does a system that allows a bad singer to earn more than a good singer get you more singing of many different kinds? The answer is yes.

reason: One of Benjamin Barber's main criticisms was that your analysis is ultimately unconvincing because you don't account for the power relations of intersecting cultures.

He wrote: "One McDonald's in Tiananmen Square may enhance diversity in China, just as the first Starbucks in Berlin diversifies its cuisine. But the market corporations of McWorld aspire not just to penetrate but also to permeate markets, and their ultimate objective is monopoly. The tenth McDonald's is a different story than the first, and No. 100 begins to force out the competition. When the franchises break the 1,000 mark, homogenization is more salient than diversification. Pluralism is not only diminished within a given culture...it is diminished among cultures as well." How do you respond to that?

Cowen: First, I should say that I thought overall his review was pretty generous, especially for someone whom I specifically criticized. But I disagree with him. What does he mean by *power*? My view is not that forcible conquest didn't happen or that it was a good thing when it did happen. I simply say at the beginning, I'm not here to defend that. Then there's the question of if you're a multinational corporation, how much power do you have over people or customers in other countries? The answer is very little.

Look at American television programs. We've been trying to send those abroad for years, and they've really been decisively rejected by virtually all foreign audiences. Some things are picked up and others not. Simply being a big multinational or spending a lot on advertising really doesn't do the trick. A lot of these so-called attempts at cultural imperialism are failures, and a lot of companies have lost a lot of money when customers don't want the product.

Take the example of McDonald's in Tiananmen Square and China. There's a lot more McDonald's in Hong Kong than anywhere else in China—and Hong Kong is also where dining is best for Chinese food. The same process that gives you a lot of McDonald's also gives you better Chinese food and better French food, Italian food, Indian food, whatever else you want to eat. I think there's room for plenty of McDonald's in China.

reason: A related fear that many people have about commerce mixing with culture has to do with concentrated ownership of entertainment and media companies. You'll hear, for instance, that five or six companies own virtually all entertainment that's produced in North America or sold in the Western world. Are you worried about that sort of thing?

Cowen: There is more and more choice. Look at what you can get through the Internet. The Internet allows you to bypass all of these

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conglomerates and order things directly—and find out about them in the first place. What the conglomerates are good at is marketing and distribution. So if good things are done, conglomerates often, though not always, pick them up, and they'll try to sell them to you more cheaply. But we're not in their thrall. We buy things outside of them all of the time. Look at the way the conglomerates have played the music market. They turned down rap, they turned down heavy metal, they wouldn't pick up Motown.

There are many, many examples of how they turned down new trends, which then succeeded outside of them. They later picked up popular forms, but they didn't stop them from happening in the first place. Rock 'n' roll itself came through the independent record companies.

reason: How does your interest in cultural exchange intersect with post-9/11 interest in and anxiety over anti-Western Islamic culture?

Cowen: I'm very interested in it. I'm doing a lot of work reading about it and thinking about it. Islam is incredibly diverse. And in its essence, it's not necessarily opposed to the things that you and I might favor. A big problem is that people in the United States and, to a lesser extent, Europe, don't appreciate the cultural contributions of Islamic societies, and they tend to look down on them. I think we'd have more influence and leverage in the Islamic world if we would ourselves be open to what they have to offer, rather than just thinking, "How can we get *our* point of view across to *them*?"

reason: What are some of the cultural contributions of Islamic societies that you think are particularly striking?

Cowen: Their popular music is one of the most vital in the world today, especially Algerian-based music that is now made frequently in Paris or in Belgium. Koranic recitals are very beautiful. A lot of older and contemporary visual artists are very good. It's not that I want to force someone to agree with my tastes, but there's a lot there, and it's a kind of crime that we pay so little attention to it. I think one reason why we're dismissed by them is we dismiss them. I think we should listen to rai music more, for instance. I think it would be a better world if we were more open to what they have to offer. They're not idiots, and they see that we're not open to their culture. I'm not saying it's some kind of excuse for terrorism, of course. I'm just saying that we find it very hard to reach the honest middle in Islamic countries, and that's part of the reason why.

We need to keep focused on the enormity of the gains from trade in terms of people and culture.

reason: What's your next project?

Cowen: I've written a case study of globalization in one Mexican village, a village I mention briefly in *Creative Destruction*. It's an anthropological case study of three brothers. I really did most of the research at the same time I was working on this book, so you could think of them as the same book.

I found that cross-cultural trade between Mexico and the United States is extremely beneficial. It's not without costs, but it really has done a lot to help Mexico develop its Mexican culture. It also lets people in the U.S. buy artwork more cheaply than they otherwise could have, exposes them to new styles, and lets them have interesting experiences.

reason: As trade between Mexico and the U.S. gets tighter, there also seems to be increasing anxiety about immigration.

Cowen: There are some are real issues. Personally, I would favor the United States' taking in many more people than it does now, but at the micro level, there are very serious problems. I think of the U.S. law that says a hospital has to treat anyone who shows up on its doorstep. You combine that with more immigration, legal or not, and you can see there's a problem. A lot of hospitals near the Mexican border are almost bankrupt because they can't handle the flow.

reason: What's the fix for that kind of thing?

Cowen: I'm not sure I have a fix for all the micro problems. I focus more on the macro gains, the larger picture. The micro problems probably need micro fixes, which I'm not able to supply. And I do favor more immigration. But, you know, there is a problematic element to it. The Julian Simon point that the gains are much larger than the costs is certainly true, but it's not always a help to the people in the field. Still, I think we need to keep focused on the enormity of those gains from trade in terms of people and culture. ▮

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Is Big Bad?

SUV critics hold consumers in contempt.

Sam Kazman

High and Mighty: SUVs: The World's Most Dangerous Vehicles and How They Got That Way, by Keith Bradsher, New York: PublicAffairs, 468 pages, $28

TALK ABOUT STUPIDITY! What kind of idiot would pay thousands of dollars extra for a poorly designed, uncomfortable, unsafe vehicle that guzzles gasoline and hogs the road? What kind of country would raise so many of these idiots that, in the span of two decades, this vehicle would go from a minuscule market share to nearly one-quarter of all new auto sales?

The vehicle, of course, is the sport utility vehicle, and we are the nation of idiot SUV owners. This is the gist of Keith Bradsher's *High and Mighty: SUVs: The World's Most Dangerous Vehicles and How They Got That Way*. Bradsher, a *New York Times* reporter who covered the auto industry for over five years, has written a breathtaking book—breathtaking in the array of arguments he offers against this vehicle, the industry that makes it, the people who buy it, the society that allows them to buy it, the planet that contains that society...you get the picture.

In Bradsher's view, the SUV is a menace to both its occupants and other drivers. Its design is outdated and inappropriate; its size, looks, and four-wheel drive bring out the worst in drivers; it clogs streets and fouls the air. Worst of all, its fuel economy is socially unacceptable.

High and Mighty has helped arm a growing anti-SUV movement whose members range from the Sierra Club and Public Citizen to the "What Would Jesus Drive?" campaign and Arianna Huffington's Detroit Project. Bradsher's book also has triggered some memorable anti-SUV diatribes by individuals.

Earlier this year, *The New Republic* carried a cover story by the normally sane environmental writer Gregg Easterbrook, bearing the understated title "Axle of Evil: America's Twisted Love Affair With Sociopathic Cars." It begins with Easterbrook contemplating the lines of SUVs outside his daughter's public school one morning, observing how SUV drivers supposedly bully their way past cars as they drop off their kids, and soon

> Do SUV owners have "reptilian" mentalities, focused on "survival and reproduction," overly fearful of crime, and "self-oriented" in lifestyle?

turns into a disquisition on modern automotive life, with some national security implications thrown in. Here's a sample line: "Every time an SUV or light pickup leaves the showroom in the United States, fanatics smile in the Persian Gulf." Al Qaeda, evidently, has direct access to car dealers' inventory control systems.

Perhaps Easterbrook was just having a bad car day, or perhaps he should put his daughter in a different school. In any case, his tirade illustrates how easily what were once mere irritations of daily life now turn into political crusades. Size differences *can* be bothersome in many contexts, but these annoyances tend to be manageable so long as you keep your temper and don't call in the politicians.

Politicians, however, are precisely the people to whom *High and Mighty* looks for a solution to the SUV Crisis. Bradsher is not simply interested in helping us make better car-buying decisions or instructing us in driving etiquette. He wants legal changes: revisions in the tax code to bring SUV business write-offs down to the level for cars, tougher air emission standards (some of which are already slated to take effect soon), and new state insurance regulations to mandate more precise model-based ratings.

He even wants higher penalties for reckless SUV driving, arguing that juries should deal more harshly with an SUV driver whose automotive needs could have been served by a car. Most important, he wants an overhaul of the federal fuel economy standards, popularly known as CAFE (for Corporate Average Fuel Economy)—a program that fueled SUV popularity in the first place by downsizing passenger cars while treating SUVs and other light trucks more leniently.

Some of Bradsher's narratives are entertaining, such as the description of his attempt to figure out how much cargo his Ford Explorer could carry. The owner's manual advised Explorer drivers to weigh their empty vehicle at a highway truck inspection station, then subtract that from the gross weight shown on the vehicle sticker. Those stations, however, served only freight trucks, so Bradsher instead had to join a line of garbage trucks waiting to be weighed at a dump. The book also includes some delightful accounts of the design contortions that automakers go through in order to get their vehicles classified as light trucks rather than cars.

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But most of Bradsher's arguments involve product judgments that SUV owners are perfectly capable of making on their own, and his contentions ultimately boil down to some questionable claims about what constitutes a "good" vehicle. "SUVs are terrible substitutes for cars," he declares, and if millions of SUV owners disagree, perhaps they need the guiding hand of new laws.

Consider Bradsher's treatment of four-wheel drive. In his view, 4WD is an essential part of the off-road fantasy that sells SUVs, a hazardous feature that benefits practically no one. 4WD is good for "deep mud or thick snow," he writes, but unnecessary on pavement that's "plowed...before the flakes become more than a few inches deep." He quotes one auto executive who claims there's "no actual customer need" for 4WD.

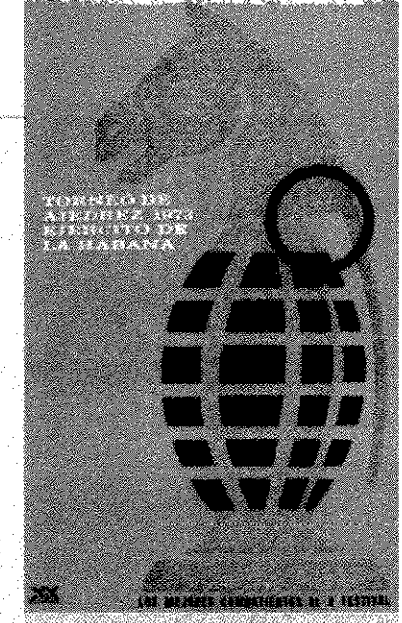
But anyone who knows anything about snow (or about municipal plowing) knows that the stuff piles up. Streets rarely get plowed to perfection, driveways are cleared only if you pay for it (and even then not right away), and snowdrifts come and go. And you don't have to live in the boondocks to encounter mud occasionally; quite often, simply pulling onto an unpaved shoulder will suffice. There's nothing wrong with millions of people deciding to pay for vehicles that can handle these conditions. Even *Consumer Reports*, which can hardly be dismissed as a car-nut publication, notes that 4WD "markedly improves traction and directional stability in snow and mud."

Bradsher is unwilling to accept the possibility that SUVs are popular because they are enjoyable and useful. He claims their off-road image is an insidious enticement, even though he acknowledges that most SUV buyers fully understand how infrequently they may travel off-road. He touts large cars as "excellent alternatives," even though they may be far from excellent for people who travel with lots of kids, friends, dogs, bikes, or anything that needs towing. In his view, the people who "really" need SUVs, as opposed to those who "think" they do, are few and far between.

Bradsher's disdain for consumer behavior makes sense, because he doesn't think much of SUV fans as people. He cites auto market research that supposedly finds SUV owners have "reptilian" mentalities, focused on "survival and reproduction," overly fearful of crime, and "self-oriented" in lifestyle. (Minivan owners, in contrast, "embrace the family image" of their vehicles and "tend to be extremely nice people.") With stereotypes like this, it's clear that SUV owners can't be trusted—except, perhaps, in those snow emergencies when hospitals call on them for help.

Bradsher's most influential arguments involve safety. He contends that most SUV buyers think their vehicles are safer than cars and that this is a huge mistake. SUVs meet fewer government safety standards; they supposedly have poorer brakes, interact terribly with highway guardrails, and are especially vulnerable to rollovers, where their death rate is twice that of cars. And then, of course, there was the unforgettable Ford-Firestone tire disaster, which provided the rare spectacle of two companies severing a decades-long business relationship as each publicly blamed the other for a deadly product defect.

These critiques, however, add up to far less than one might think. In terms of overall occupant protection, cars and SUVs are practically equivalent in terms of fatality rates—a point Bradsher acknowledges but which is easy for the reader to miss. Occupant fatality rates are the best single basis on which to compare the safety of these two vehicle types, because these rates represent each deadly type of accident in proportion to how frequently it occurs. The National Academy of Sciences' 2001 report on



Two Cheers for Totalitarian Art

Some of it's good, and the rest is ripe for mocking

The propaganda art of totalitarian countries falls into three rough categories. At the lowest level, there are the ubiquitous portraits of the Beloved Leader—Stalin, Mao, Kim Il Sung—that come bundled with a personality cult. A small step up from that are the kitschy orthodoxies of socialist realism and Nazi architecture: iconic, "heroic," and never, ever degenerate.

And then there's the genuinely inventive stuff. Authoritarianism and individual expression do not generally walk arm in arm, but there have been times and places where they did: in the Soviet cinema of the 1920s, for example, or the lively posters of Castro's Cuba. The latter are on display in *Revolución: Cuban Poster Art* (Chronicle Books), a colorful collection assembled by Lincoln Cushing, a librarian at »

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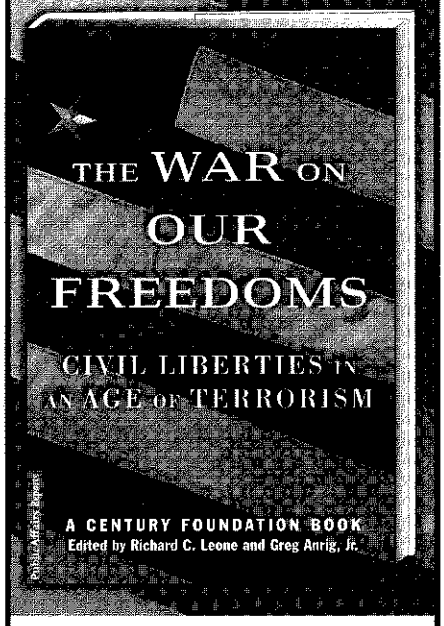
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CIVIL LIBERTIES IN AN AGE OF TERRORISM
A CENTURY FOUNDATION BOOK
Edited by Richard C. Leone and Greg Anrig, Jr.

Americans have long struggled with the balance between freedom and security—but since 9/11, our hard-won liberties are in danger as never before. Now, top scholars, journalists and historians speak eloquently on behalf of freedom, arguing to reverse the tide before lasting damage is done to our ideals.

CONTRIBUTORS INCLUDE
Alan Brinkley, E. J. Dionne, Jr., Christopher Edley, Jr., Joseph Lelyveld, Anthony Lewis, John Podesta, Kathleen Sullivan, Roberto Suro, Patricia Thomas

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CAFE standards reported an annual occupant death rate for SUVs of 140 per million registered vehicles, compared to 138 for cars. All in all, the two types of vehicles were virtually identical in terms of safety.

Moreover, the largest SUVs, those over 5,000 pounds (e.g., Ford Expeditions, Chevy Tahoes, and Toyota Land Cruisers), had a lower rate than any other class of vehicle available: 92. The poorest-performing SUV category was the smallest: The under-3,000 pound vehicles, such as the 1997 Geo Tracker.

The death rate for this class, 195 per million, was more than double that of the biggest SUVs. But even these models outperformed minicars, whose death rate of 249 per million was the worst of any vehicle (unlike their fuel efficiency, which is tops). The smallest SUVs have been upsized over the years, moreover, and so there are practically no new SUV models in this least-crashworthy category.

In short, SUVs are probably as safe or safer than cars as a class. Moreover, those who choose the most despised SUV models (the largest ones) for safety reasons are not making a mistake.

Occupant protection, however, is only part of Bradsher's safety critique. Even if SUVs protect their occupants well, there is still the claim that they kill other people—in particular, occupants of cars unlucky enough to collide with SUVs. Bradsher argues that SUV-car crash "incompatibility" accounts for perhaps 1,000 deaths per year.

Crash incompatibility is not a phenomenon that arose with sport utility vehicles. Trucks have long been incompatible with cars, and cars are incompatible with motorcycles, bicycles, and pedestrians. But while accident photos of subcompacts demolished by hulking SUVs grab attention, has the popularity of SUVs really changed the risks faced by car drivers? If it has, then the number of car drivers killed in two-vehicle crashes, as a fraction of all car drivers killed, should have risen dramatically as SUV sales soared.

But this simply hasn't happened, according to Dr. Leonard Evans, an internationally recognized traffic safety researcher: "If SUVs were substantially increasing risks to car occupants, then it must necessarily follow that this ratio would increase with increasing numbers of SUVs on the road. But in fact the data from 1994 forward show no hint of any such increase."

Even if owners were imposing serious new risks on car occupants, this fact would not justify government action. We accept altered automotive risk patterns all the time when technologies or consumer desires change. As Bradsher himself notes, the advent of theft-proof auto locks spurred a rise in carjackings. Carjacking is far more violent than other types of auto theft, but one could hardly argue that this risk of physical injury is a reason for outlawing good car locks.

But it is Bradsher's treatment of CAFE standards that is especially troubling. He uncritically accepts the need for government action to restrict gasoline consumption, then advocates CAFE-style mile-per-gallon regulatory mandates because the alternative of gasoline tax hikes is politically unfeasible. But tax hikes are unfeasible because they are highly visible, whereas CAFE's impact is supposedly acceptable because it's inconspicu-

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ous. Given Bradsher's concern about misleading industry campaigns, his endorsement of this opaque regulatory scheme is curious.

Especially given CAFE's somewhat notorious history. CAFE kills people by forcing manufacturers to make vehicles smaller and therefore less crashworthy than they otherwise would be. The Department of Transportation has steadfastly kept the public in the dark about this effect; in a 1992 lawsuit brought by the Competitive Enterprise Institute and Consumer Alert, a federal appeals court said the department's approach was based on "legerdemain" and "mumbo-jumbo." The 2001 National Academy of Sciences CAFE study estimated CAFE's lethal impact at between 1,300 and 2,600 lives per year.

Bradsher acknowledges this effect, though with far less detail than he devotes to SUV risks. He misses entirely the fact that the Ford-Firestone tire fiasco was due in part to Ford's quest for higher fuel economy. And while Bradsher describes several possible reforms of CAFE, it is not clear that any of them would alleviate the program's deadly impact on safety.

In an unintentionally amusing passage, Bradsher disparages the "automakers' absurd suspicions that a shadowy conspiracy of environmentalists, consumer activists and journalists wanted to take Americans' SUVs away." But between the "What Would Jesus Drive?" campaigners, the Arianna Huffington ads, and the recent torchings of SUVs on dealer lots by radical greens, those suspicions don't seem all that far-fetched. As "high and mighty" as SUVs might seem, they're nothing compared to the attitudes of their critics. ▯

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the University of California at Berkeley. This art represents a paradox, particularly when its bold designs are attached to clumsy, grating slogans: "Pull Together With Efficiency and Quality," "Anti-Imperialist Unity Is the Tactic and Strategy for Victory," "We Advance, Inspired by the Beautiful Socialist Cause." It's as though the lyrics to Beethoven's Ninth Symphony were drawn not from Schiller's *Ode to Joy*, but from a rather severely written instruction manual.

The tension does not disappear when the slogans are absent. Aside from some film posters, these are propaganda pieces; their political purpose is inescapable. This is disturbing even when the cause being advanced is itself unobjectionable. There is a difference, after all, between an American poster protesting the Vietnam War and a poster produced in Cuba for the same purpose. The first expresses one artist's dissenting opinion. The second expresses the official view of a regime with little tolerance for dissent. It brings to mind not just the cause on display but the causes that are absent: There are posters here protesting the U.S. presence in Vietnam but not the Soviet presence in Afghanistan; the mistreatment of blacks in the United States but not the mistreatment of blacks in Cuba; the persistence of imperial rule in Africa but not the persistence of imperial rule in the Baltic republics.

In short, this book isn't »

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Journalism's Identity Crisis

What is the news for?

Joli Jensen

Democracy and the News, by Herbert J. Gans, New York: Oxford University Press, 240 pages, $26

WHAT KIND OF news do we need for democracy to flourish? This question bedeviled journalists and scholars throughout the 20th century, and now it animates the latest book from sociologist Herbert J. Gans. His answer, however, is oddly contradictory. In *Democracy and the News*, Gans argues that we need a different kind of news, along with differently trained journalists, while simultaneously suggesting that journalism itself "can do little to reduce the political imbalance between citizens and the economic, political and other organizations that dominate America." His final chapter suggests economic, political, and social reforms to redress this imbalance of power, but only after telling us how little the news can really "do."

So which is it? Can the right kind of news foster the right kind of democracy? Or does democracy depend on something other than the information we call "news"? Journalists and media academics want to believe that the right information will guarantee active, engaged, informed citizens who can participate wisely in self-government. Gans tries to have it both ways: News practices can and should be changed to encourage citizenship, but in the end, they don't really matter. If we examine the reasons behind this contradiction, they suggest that there is something amiss in the way that he—and we—understand news, citizenship, and democracy.

Media scholars such as James W. Carey have long noted a fundamental problem with the definition of the news that Gans and many journalists use. They see news as the transmission of messages to a stubbornly inattentive public. Attempts to measure how well this process functions usually find that it doesn't work very well. People don't understand news stories, nor do they remember them; worse yet, they fail to change their beliefs or their actions because of them.

Journalism's theory of democracy still relies on a belief that an informed citizenry will be an engaged citizenry, that an engaged citizenry will be more participatory, and that the result will be a more democratic society. As Michael Schudson points out in *The Good Citizen* (1998), this is a relatively modern view of what each of us should be. Democracy emerged—and sometimes flourished—with alternative visions of citizenship and information.

For the founding fathers, the ideal citizen was a white, property-owning male whose vote was a ratification of a fellow prominent citizen's trustworthiness to lead. Contemporary democratic staples like freedom of the press, party politics, open deliberation, campaigns, and even widespread public education were not considered vital elements for citizenship in the colonial period. Our first version of democratic citizenship was, in Schudson's analysis, a politics of assent.

This gave way, in the mid 19th century, to a politics of affiliation, where the ideal citizen was a party loyalist, aware of his party's passions and convictions and active in the carnivalesque atmosphere of conventions and election days. It wasn't until the turn of the 20th century that the ideal of an independent, rational, informed citizen became dominant, and it was in that context that rational, informed, "objective" news became central to our vision of democracy. The informed citizen needs a neutral, trustworthy information source—knowledge of the facts—not knowledge of the platform planks in his political party or the lineage of his potential representative. The emerging profession of journalism relied increasingly on this vision of news as disinterested expertise, fueling the public's need, or right, to know.

Gans, like many social critics, begins with the premise that an uninformed public is a disengaged public. He believes that "we live in a country in which the normal state of the citizenry is 'disempowerment.'" Current news practices, supposedly flawed and ineffective, must be changed. But if the effort won't make that much difference in the end, why bother? Gans' case is logically muddled because he, like many others, presumes that information, civic participation, and democracy require each other. That is a presumption worth questioning.

There is a way out of his muddle that salvages many of Gans' most interesting points, but only if we redefine the key concept. News is best understood not as information, but as a form of more general, mediated storytelling. A participatory democracy relies on many things, information among them. But this more cultural definition includes all the stories we tell ourselves. If professional journalism is but one of the ways we tell ourselves stories, and stories are only part of what sustains

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our common life, then what matters (and what doesn't) about how news operates?

Let's examine Gans' case. In a chapter dedicated to "Journalistic Practices and their Problems," Gans sketches a familiar story: the sorry state of national journalism. On the "production" side, there is shrinkage, conglomeration, and consolidation in the news industry, declining foreign news coverage, and increasing focus on commercially successful (rather than professionally excellent) news practices.

On the "consumption" side, he describes declining audience trust in the media, along with a general disinterest in "traditional" political and economic coverage. These general problems are exacerbated by established journalistic practices, which mean that news flows from big cities, especially Washington, and is gathered from established, news-savvy insiders. The national news is routinized and mass produced, paying attention mostly to established government sources, and fostering very little independent investigation of the economy, or of the consequences of political decisions.

Gans then moves beyond the "informed citizen" ideology in a discussion of "The Problem of News Effects," summarizing the different social functions the news may have. Here he unintentionally—but crucially—moves away from his model of news as information transmission. Instead, he considers news to be a modern social and cultural form. Gans points out that the news has a function of social continuity—demonstrating by its recurring formulaic coverage that "the social order continues to exist." He also argues that the news informs people of what journalists deem important, legitimates the dominant social system, possibly shapes opinions, and (rarely) has effects on individual actions. There is also, he suggests, a watchdog effect (keeping tabs on the powerful), and general effects on political opinion, especially around election time.

But these news functions have little to do with information transmission, and much more to do with storytelling—they spring from the media's ongoing portrayal of the world. The news offers us mundane and sometimes heroic pageantry, the spectacle of dramatic players whom we hold to certain standards, and whose actions and experiences have some implication for our common lives. These "social functions" are really about news portraying the world *theatrically*, rather than informing us objectively of facts. Without a free press, Gans rightly notes, we are at risk for autocracy or chaos. But is this because we will be inadequately "informed" about facts? Or is it because we will be without access to diverse, contradictory, and meaningful portrayals of our common life?

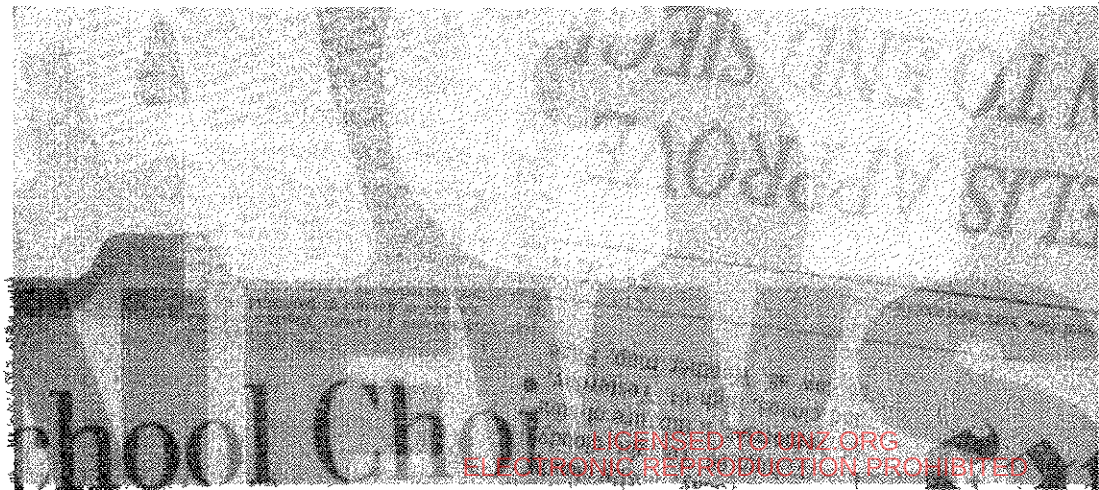
What does the news *mean* to us? The transmission model of news that Gans relies on misses most of what makes news meaningful in a modern democracy. It imagines the public as

exactly a testament to artistic freedom. Cushing's running commentary is sympathetic to Castro's revolution, but even he notes that "almost every designer has anecdotes of creative work thwarted by political inappropriateness or bureaucratic thickheadedness."

Yet these are delightful posters: playful, colorful, sometimes remarkably abstract. Shapes morph into one another: a flag is also a crowd, a chess piece is also a grenade, a map of South America is also a fist. George Jackson, a Black Panther slain in a prison shootout, bleeds star-spangled red, white, and blue. It's not hard to see why even an apolitical American might want to hang reproductions of these pages on his walls.

Indeed, there's a substantial demand in the U.S. for the artifacts of Red rule, a market that extends well beyond that small segment of the population with Marxist sympathies. It also extends well past material that has indisputable artistic merit. The Western appropriation of communist kitsch thrived during the Cold War, for purposes both earnest and ironic, and it has not abated since then. If anything, the fall of the Berlin Wall has unleashed a flood of art from East to West: from the sculpture of Lenin that now stands on a Seattle street corner to the equally Bolshevist statuary at Red Square, a proletarian-themed restaurant in Las Vegas.

All this has prompted much aghast commentary, usually »



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passive information recipients, not as constant participants in dramas of private and public life. As Carey has long noted, the transmission view of news misdefines public life as a technocratic process of information circulation, dissemination, and retrieval, rather than as dramatic, ritual participation in common experience.

The transmission view limits news to political and possibly economic "information," and dismisses most of what people are eagerly consuming—newsmagazines, feature stories, celebrity gossip—as not-news, as mere entertainment. The more that journalists and scholars cling to this definition, the more the audience becomes their scapegoat. This logic leads to chronic complaining: What is *wrong* with people who don't eagerly attend to "real" news, weigh the pros and cons of policies in small, lively political conversations, then rush off to precinct meetings and voting booths? And it leads to a recurring implicit hope, shared by Gans: that with the right kinds of news, maybe people would become the right kinds of citizens, and stop wasting their time with pop culture trash.

Gans' remarkable academic career makes this a surprising hope. He has a deep understanding of people's lived experiences and has long been an articulate champion of cultural pluralism. His extraordinary participant-observation work (of an Italian-American community in Boston's West End in *The Urban Villagers*; of suburban experience in *The Levittowners*) demonstrates his unusual respect for the varieties of imaginative worlds we live in. His seminal work on cultural pluralism, *Popular Culture and High Culture*, describes and honors the varieties of "taste cultures" that make up a democratic society. But when it comes to thinking about news and democracy, he maintains a definition of news as information that almost completely misses its role as culture.

Imagine, instead, a more cultural view of the news. Such a view would see news as a vast, commercial, professionalized system of telling stories that reporters think that the public ought to know, in response to what the public is already interested in. In his recommendations for journalistic change, Gans actually tends toward this more cultural approach, and offers suggestions that challenge

> Can news—or any form of culture—really guarantee the democracy we yearn for?

longstanding notions about the line between information and entertainment. In this way, he is clearly a sociologist rather than a journalist; few professional journalists would allow concerns about neutrality and objectivity to be so blithely disregarded.

For example, Gans devotes a chapter ("The News: What Might Be Done") to how the news could become more "user-friendly," more responsive to everyday people's actual interests. Challenging many truisms about what the news is and ought to be, he calls for intensive ethnographic investigation into what people want from the news, with a concurrent attempt to offer it to them. Gans suggests that local news constantly seek to address the "effects, implications and impacts" of national and international news on the local community. He calls for journalists to spend more time hanging around

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coffee shops, rather than in the corridors of power.

More responsive, localized news formats have been attempted, with mixed success. Among the most admired, at least by critics, are the efforts of the controversial "public journalism"—a range of practices that involve journalists with the people and communities they cover—detailed by Jay Rosen and others. Among the least admired are the "local angles" on national stories offered by local broadcast news.

These attempts at user-friendly news tend toward the fatuous and pandering: man-in-the-street interviews, alarmist reports into product safety, and call-in segments are rarely extolled as democratic progress. *USA Today*, the ultimate user-friendly national paper, is not at all what critics think the news ought to be. In fact, the more "user-friendly" and local the news becomes, the less it addresses the "Why?" questions that Gans ultimately hopes the news can cover.

Indeed, the most interesting part of Gans' argument is his suggestion that news needs to be reconfigured to address *Why?* rather than the traditional *Who? What? When? Where?* of the canonical news story. He calls this "explanatory journalism" and he conceives of it as identifying causes and possible cures for current conditions. In his move away from fact-based, neutral, impersonal hard-news stories, Gans suggests that journalism needs to focus much more on understanding what leads to, and follows from, events and conditions.

What Gans is really recommending is for journalism to be more sociological—more about understanding and interpreting what underlies experience. But current journalism's attempts at explanation are rarely interpretive or analytical in these ways. While venues such as *The New York Review of Books*, *The Nation*, *The New Republic*, *National Review*, and **reason** offer analyses to the more academically inclined, "Why?" questions are usually addressed in the popular media by "dueling experts" who offer starkly contrasting arguments as to why Americans are mistrusted abroad, or why oil prices are falling, or why someone is behind in the polls.

There are many differences between academic analysis and current versions of public discussion. Academic types are all about "Why?" and turn to each other to offer explanations. But the current public-discussion approach to "Why?" questions is found mostly on talk radio or late-night talk show monologues, where there is precious little recourse to what we would want to call evidence or knowledge or understanding. This, then, becomes an issue of social class and styles of explanation. While Gans never makes this claim explicitly, in *Democracy and the News*, he is seeking ways to make academic styles of explanation accessible and palatable for a wider audience.

Gans also calls for the development of explicitly opinion-based news stories—effectively dissolving American journalism's long-standing insistence on a reporter's neutrality. In his most innovative suggestion, he argues for consciously "multi-perspectival" news coverage, designed to represent all strata of society, by hiring journalists from differing social classes and ethnic groups. Finally, he even suggests adding satire and humor to traditional news coverage, as well as "news fiction" (like *The West Wing*), all to help make the news interesting and accessible to all kinds of people.

Well. This will curdle the blood of most journalism educators and professionals. They will point out that many of Gans' suggestions are already with us, but as entertainment, not "news." The commercial mass media are by their nature "user-friendly"; in order to make money, they will tell us just about anything that enough of us want to know about, in what-

from professional conservatives. Michael Medved denounced Seattle's statue on his radio show, while *FrontPage* published a 1,500-word rant against it. (Its conclusion: "Enjoying the aesthetic quality of Lenin's images, therefore, is a luxury that communism's victims can ill afford.")

It's hard to take such critiques seriously. True, there's a cadre of Castroites who will buy Cushing's book for its politics, along with nonsocialists who merely like the pictures. But that clearly isn't what's happening in Seattle or Vegas—it's obvious that those statues are *jokes*. You could argue, I suppose, that tyranny shouldn't be a joking matter. But the people who actually lived under communism made wisecracks about it all the time, and I don't see why the rest of us should be left out of the fun.

Ideologues will still cluster around art that is defensible on its own aesthetic terms, like the posters in *Revolución*. The rest is up for grabs, and there's nothing anyone else can do about it—not Medved, not *FrontPage*, and not poor Vladimir Ilyich, once master of Russia, now reduced to loitering by a Seattle taco joint. ☐

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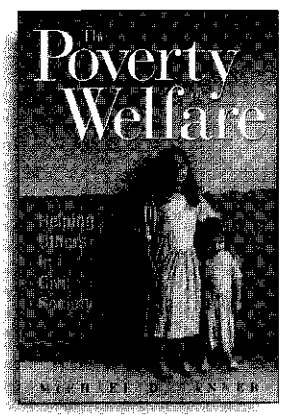

The Poverty of Welfare: Helping Others in Civil Society

by Michael D. Tanner

The 1996 welfare reform was the most significant change in social welfare policy in nearly 60 years. *The Poverty of Welfare* examines the impact of that reform within the context of welfare's history and concludes that, while welfare reform was a step in the right direction, we have a long way to go to fix a deeply troubled system. Tanner suggests that we should be working toward the total elimination of government welfare programs, substituting a renewed and invigorated program of private charity and economic opportunity.
2003/224 pp./paper $15.00
ISBN 1-930865-41-4

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ever ways we find most appealing. The mass media "tell the world" in varieties of ways, including humor, satire, news fiction, magazine stories, local angles, and opinions. We have all kinds of stories available to us through the contemporary mass media, which means we also get our "news" from fiction, humor, gossip, contests, jokes, and songs.

What about "multi-perspectival" journalism? If we look at news in cultural terms, understanding that news is one of the many ways we now tell ourselves about the world, then who is doing the telling, in what ways, and about whose world? One of the most powerful and interesting questions in Gans' analysis is, *Whose stories does journalism tell?* Where, he rightly asks, are the voices of the working people and the poor in contemporary journalism? Where are the perspectives of the immigrant, the undereducated, the disenfranchised?

Gans' solution (as it was in his classic *High Culture and Popular Culture*) is to suggest government support for programming to the underrepresented. Another option, more amenable to libertarian sensibilities, would be to ensure that all groups have access to the communication technologies that would allow them to tell their *own* stories, to each other and to the rest of us. Cheap, accessible media technologies help foster an open marketplace of ideas, with a more diverse, inclusive, and cosmopolitan mix of media stories.

Which brings us back to the heart of the problem: What kind of news does democracy need? Gans answers that we need the kind of news that gives people the information they need to participate in public life, and to make wise political and economic decisions. I suspect he also hopes that the changes he suggests will help make people more insightful and compassionate, as he defines those terms. Is it political and economic information, dutifully absorbed, analyzed, and discussed, that will do this for us? Or is it knowledge about the world, gained through imaginatively participating in varieties of accounts, that will help us participate with wisdom, insight, and compassion in our common life?

Perhaps democracy thrives when we have various forms of imaginative participation in our common life; perhaps the modern media already offer us the kind of "news" democracy needs. But to believe (and celebrate) this, we need to understand that the news is more than, and different from, the transmission of political and economic facts. Gans rightly recognizes how much we rely on the idea of news to protect our idea of democracy. But can news—or any form of culture—really guarantee the democracy we yearn for? Could we instead suggest that the ever-transforming commercial mix we have right now is more user-friendly and multi-perspectival than ever before? And could our problem be not with news, but with our dreams of how news can transform us? ▫

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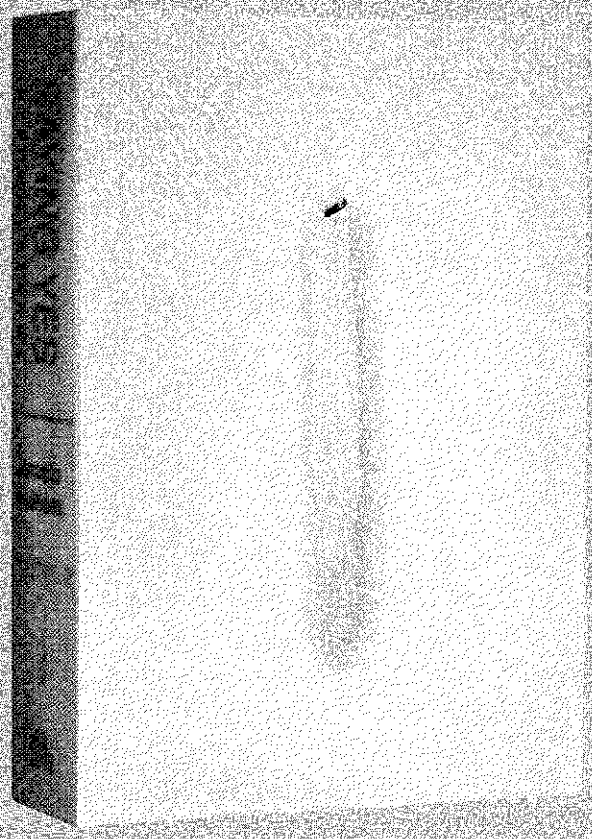

In *Saying Yes*, Jacob Sullum of *Reason* argues that illegal drug use should be viewed the same way as drinking, with an emphasis on temperance rather than abstinence. Sullum rejects the idea that there is something inherently wrong with using chemicals to alter one's mood or mind. He uses compelling stories about real people to illustrate the point that there is such a thing as responsible drug use.

The drug war is based on the demonization of drugs and the people who use them. The assumption that certain drugs cannot be used responsibly is one of the biggest obstacles to drug policy reform. By refuting this myth, *Saying Yes* takes a bold and important step toward ending the nation's costly and devastating war on drugs.

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—*Nadine Strossen, president of the American Civil Liberties Union, professor of law, New York Law School*

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—*Penn Jillette, the larger, louder half of Penn & Teller*

Saying Yes

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Why *Buffy* Kicked Ass

The deep meaning of TV's favorite vampire slayer

Virginia Postrel

WHEN *Buffy the Vampire Slayer* premiered on the WB Network in 1996, American culture was in trouble. Americans were bowling alone, pursuing individual interests to the detriment of the communal good. Business leaders were celebrating creativity and neglecting discipline. Nike's "Just do it" ads were teaching young people to break the rules. Hollywood was turning out "nightmares of depravity."

Americans had forgotten bourgeois virtue. Freedom and affluence had made us soft. We were self-indulgent moral nihilists—materialistic, selfish, and impulsive. We might have been having fun, but we'd created a culture no one would fight for.

At least that's what the wise men said.

On September 11, 2001, they shut up. Ordinary Americans, it turned out, were not only brave but resilient and creative, even lethal, when it mattered.

Buffy was right all along.

For those who somehow missed its cult success, *Buffy* tells the story of an unlikely hero—a pert, blonde teenager whom fate has destined to be the Slayer, the "one girl in all the world" endowed with the supernatural strength to protect humanity against the demon hordes. Buffy would rather be a cheerleader and prom queen, but a normal life is not to be. "No chess club and football games for me," she says. "I spend my free time in graveyards and dark alleys."

The show, which ended its seven-season run in May, began as a reification of the horrors of high school. What if that ambitious cheerleader wannabe really was a witch? What if the girl no one paid attention to really turned invisible? What if the swim coach really would do *anything* to win? What if sleeping with your boyfriend made him act like a different person, turned your Angel into a cruel and vicious monster?

The mere existence of Buffy proves the declinists wrong about one thing: Hollywood commercialism can produce great art. Complex and evolving characters. Playful language. Joy and sorrow, pathos and elation. Episodes that dare to be different—to tell stories in silence or in song. Big themes and terrible choices. In the show's most wrenching moment, Buffy kisses her one true love and saves the world by sending him to hell.

Buffy assumes and enacts the consensus moral understanding of contemporary American culture, the moral understanding that the wise men ignored or forgot. This understanding depends on no particular religious tradition. It's informed not by revelation but by experience. It is inclusive and humane, without denying distinctions or the tough facts of life. There are lots of jokes in *Buffy*—humor itself is a moral imperative—but no psychobabble and no excuses. Here are some of the show's precepts, a sample of what Americans believe:

Evil exists. Evildoers deliberately inflict pain on others. Sometimes they do so because they enjoy watching others suffer. Sometimes they do so to assert or gather power. Often they seek both immediate pleasure and long-term gain. Whether they seek to rule the world or to humiliate high school lovers, evildoers lack empathy. They lie. They manipulate the vulnerabilities of others. The truly evil are abetted by the weak and venal, who assist them out of fear, ambition, anger, or hate. The servants of evil are evil as well.

Redemption is possible. The once-evil can change. Vampires can reclaim their souls. Cutey alpha girl Cordelia can learn to be nice. But true redemption exacts a price. Penitents must face what they've done. They must suffer. Faith, a second Slayer (long story there) who "went all evil and started killing people," must willingly go to prison for her crimes. Andrew, the nerd manipulated by grandiose dreams of godhood, must admit that he, not some outside force, killed his best friend. There's no cheap grace in the Buffyverse.

Evil must be fought—sometimes literally, with fists and weapons. Most evildoers are beyond redemption. They are certainly beyond persuasion. War is stupid and wasteful and cruel and necessary. "People die," says Buffy. "You lead them into battle, they're going to die. It doesn't matter how ready you are or how smart you are. War is about death. Needless, stupid death." The next day, she goes to war. And good people die.

Evil never goes away. Individual evildoers can be defeated; the current manifestation of evil can be destroyed. But, says Buffy, "There's always more."

We don't get to choose our reality. Life's not fair. There's no point in whining. "I hate this," Buffy tells her small band before their final battle. "I hate being here. I hate that you have to be here. I hate that there's evil and that I was chosen to fight it. . . I know a lot of you wish that I hadn't been

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either. This isn't about wishes. This is about choices."

We do get to choose what we do. Buffy doesn't choose to be the Slayer, but she chooses *how* to be the Slayer. She chooses to have friends and to share her mission with them. She chooses to wear cool clothes. She chooses to improvise, to break rules, to find loopholes. If prophecies decree that no sword can slay a certain demon, she gets a rocket launcher. She is pragmatic, creative, and incredibly effective.

"It flies in the face of everything we've ever—every generation has ever done in the fight against evil," says Giles, her former Watcher and father figure, when Buffy lays out her plan in the finale. "I think it's bloody brilliant."

Life's pleasures are precious. Buffy continues her sense of humor, her great hair, and her love of ice cream. She has fun with the friends she loves. The jokes and playful language are as essential to the Buffyverse as the earnest sentiments they cut across.

"So what do you guys want to do tomorrow?" Buffy asks her best friends as they walk to their final battle, a battle none expects to survive. "I was thinking of shopping, as per usual." Banter ensues about shoe cravings and the right look for a guy with an eye patch.

"Aren't we going to discuss this?" asks Giles, befuddled and a tad disapproving. "Save the world, and go to the mall?"

Well, yes. That's the world they're fighting for. ■

Virginia Postrel (vpostrel@gmail.com) is the author of The Substance of Style: How the Rise of Aesthetic Value Is Remaking Commerce, Culture, and Consciousness, which will be published in September by Harper Collins.

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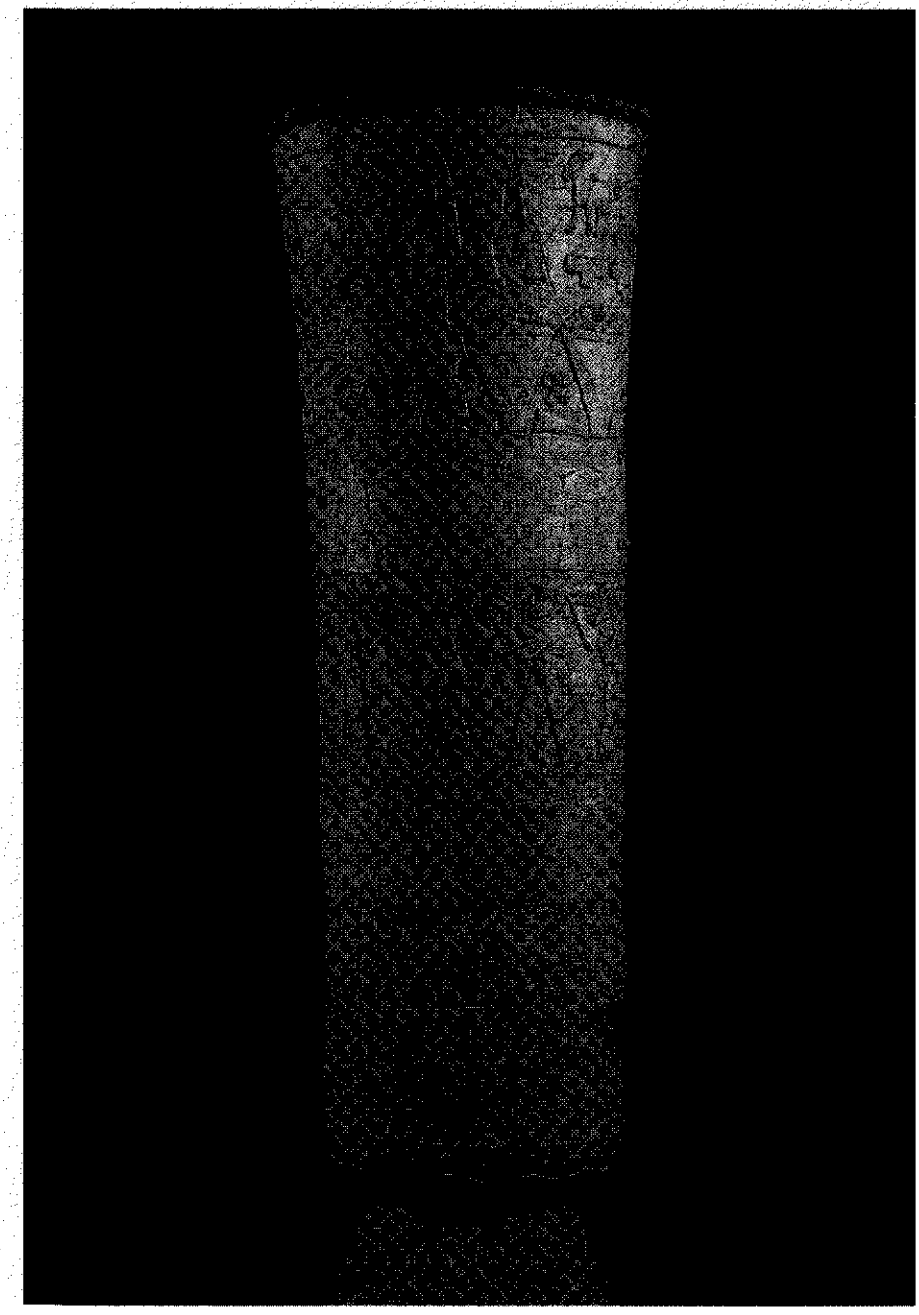
Vase Deferens

Charles Paul Freund



Erich Lessing/Art Resource, NY

HERE'S THE 5,000-year-old Warka Vase; it was missing from Iraq's National Museum when Baghdad fell, but was returned in June by three men who had it in the trunk of their car.

According to Denise Schmandt-Besserat (the scholar who determined that writing originated not in poetry but in trade), the significance of this alabaster vase lies in its five related lines of mythic carvings depicting humans, animals, and gods. "It is the first large narrative picture of its time," she says.

Thereby hangs a tale. The looting of the Iraq museum is one of journalism's most botched Big Stories. The alleged disappearance of the Mesopotamian heritage—170,000 looted treasures—eventually became a story about some three dozen stolen artifacts of great significance (plus quite a few missing stored items of far lesser value) that may have been filched with the connivance of museum staffers.

The false tale of the gutted museum had its pictures—misleading images of smashed displays—and even its mythic elements, especially the villainous role assigned to supposedly boorish Americans indifferent to antiquity. But the Sumerians were much better at creating narrative myths. Theirs have lasted millennia, and unlike modern pictorial mythmaking, Sumerian stories, like that on the vase, are missed when they're gone.

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Democracy as a New International Norm?

Michael McFaul is the Helen and Peter Bing Research Fellow at the Hoover Institution.

Critics of the American-led wars in Afghanistan and Iraq cited the violation of state sovereignty as their chief concern. Invoking the United Nations Charter, opponents of these wars warned that American violation of Afghan and Iraqi sovereignty was illegal, immoral, and threatening to international order.

Forty years ago, these defenders of sovereignty would have been promoting sovereignty as a powerful battering ram for destroying empires and undermining the legitimacy of colonization. Eventually, empire became an illegitimate and extinct form of government; the hope was that acquiring state sovereignty would be the first step toward popular sovereignty. People living in colonies could choose their rulers only after shedding their colonial masters. Decolonization and democratization were to go hand in hand.

Today, however, the champions of sovereignty have become the conservatives. We should respect sovereignty, but it should not trump all other norms all the time. Defending Afghanistan's state sovereignty in 2001 or Iraq's in 2003 meant defending the wretched Taliban and Saddam Hussein. Both the Taliban and Hussein seized "sovereignty" by using brutal force.

In speeches justifying these wars, President George W. Bush proposed a liberty doctrine, which places the sovereignty of individuals above the sovereignty of the state. According to Bush, the sovereignty of regimes elected by their people cannot be violated. But those regimes not so constituted are illegitimate. **Like those who embraced sovereignty as the intellectual counter to empire a half century ago, Bush embraces liberty as a weapon against dictatorship.**

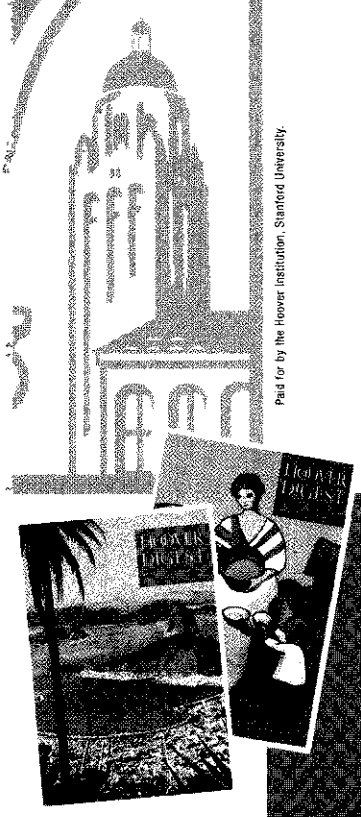
This liberty doctrine is not new. American presidents have sporadically deployed armed force to promote liberty in international politics. With his decisive actions in Afghanistan and Iraq, Bush has given new impetus to the idea of promoting democratic regime change abroad.

Bush actively promoted democratic regime change in places ruled by dictators' threatening the United States. He did not start by dethroning despots loyal to American interests. The real test of his commitment to this doctrine will be his passion for deploying *nonmilitary* means for the cause of liberty in places such as Egypt, Saudi Arabia, and Russia.

The American people are unlikely to support another preemptive war in the name of democracy. Even if Bush remains committed to this new doctrine, others in his administration, in his party, on Capitol Hill, and in other strategic countries are less interested in the project. **As the going gets rough in Iraq and budgets deficits bloat in this country, the president may be tempted to let his doctrine of liberty morph into a smaller doctrine of stability.**

Such a reversal, however, will vindicate the champions of sovereignty and delegitimize the American-led wars in Afghanistan and Iraq. President Bush, therefore, must back up his rhetoric with long-term strategies for securing democracy. If he fails, these wars will have been wasted opportunities and be remembered instead as examples of using U.S. military might for U.S. material gain. If Bush stays the course and builds a bipartisan domestic coalition, then just maybe—forty years down the road—*dictatorship* will follow the same fate as *empire* and become an extinct form of government.

— *Michael McFaul*



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